

**From:** (b) (6) [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** (b) (6) [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Cc:** (b) (6) [CIV USN \(USA\)](#); (b) (6) [USN \(USA\)](#); [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**Subject:** CHINFO Member Seeking Religious Accommodation  
**Date:** Friday, October 15, 2021 1:15:45 PM

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(b) (6) –

I spoke with CDR Sharpe this afternoon and he intends to seek a religious accommodation waiver for the COVID vaccination requirement. He is copied above at his correct email address. Please send him an email at your earliest convenience so he has your flank speed contact info. He will reach out to (b) (6) for the admin associated with such a request. Please provide all support and documentation as may be required.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Subject:** COVID-19 VACCINATION REPORTING REQUIREMENT  
**Date:** Monday, November 8, 2021 2:37:19 PM

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John –

I noted previously that we are about to start hitting deadlines that are beyond CHINFO's control and we are now there. I'm sending this as a heads up that we have been directed to report the COVID status of all hands as it stands on 15 Nov. I need you to request a medical or religious exemption immediately if it's your intention to do so, or go to a MTF, get vaccinated, and provide us the documentation. If you do not intend to request a waiver or get vaccinated by 14 Nov., so that we can meet the 15 Nov. reporting requirement, please clearly state your refusal to receive the COVID vaccine.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**To:** "PERS-834@navy.mil"  
**Cc:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA); (b) (6) CPO USN (USA); (b) (6) CPO USN CHINFO WASHINGTON DC (USA); (b) (6) LCDR USN (USA); (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Subject:** COVID-19 Vaccine Refusal: CDR John F. Sharpe  
**Date:** Monday, November 22, 2021 10:17:02 AM  
**Attachments:** [Retire Retain Notification Letter - CDR Sharpe.pdf](#)

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PERS-834,

CDR John F. Sharpe, USN, 1650 has refused the COVID-19 vaccine.  
CDR Sharpe is not eligible for promotion due to his status as retained on active duty in a retired status. CDR Sharpe's approved request for retention on active duty in a retired status dtd 18 May 21 is attached.

I am the POC for this issue, my contact information can be found in my signature block.

Please let me know if you have any questions or concerns, or if you need any additional information. Also, please verify you received this email.

Very Respectfully,

CDR (b) (6) APR+M  
Executive Assistant to the Chief of Information (CHINFO)  
1200 Navy Pentagon 4B463  
Washington, DC 20350  
(b) (6).mil@us.navy.mil  
703.697.7392 (o)  
(b) (6) (c)

From: (b) (6) CIV USN (USA)  
To: (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
Cc: (b) (6) LCDR USN (USA); (b) (6) USN CHINFO WASHINGTON DC (USA)  
Subject: CUI: RE: greetings - privacy act (PA) inquiry  
Date: Wednesday, November 24, 2021 3:30:36 PM  
Attachments: (b) (5), (d)(5)

CUI

CAPT (b) (6) – Great. I'll coordinate with LT (b) (6) on the redactions.

LT (b) (6) – (b) (5)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Please let me know your guidance. Thank you!

(b) (6)

(b) (6) OPA, APR  
CHINFO Assistant Chief of Information, OI-1  
1200 Navy Pentagon, 4B514  
Washington, DC 20350-1200

(b) (6) [civ@us.navy.mil](mailto:civ@us.navy.mil)

(b) (6) [@navy.smil.mil](mailto:@navy.smil.mil)

703-614-7750

(b) (6)

Controlled by: DON  
Controlled by: CHINFO  
CUI category: PRVCY  
Distribution/Dissemination  
Control: FEDCON  
POC: (b) (6),  
(b) (6) [civ@us.navy.mil](mailto:civ@us.navy.mil)

CUI

From: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Sent: Wednesday, November 24, 2021 2:56 PM  
To: (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Cc: (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil); (b) (6) CIV USN (USA); (b) (6) [civ@us.navy.mil](mailto:civ@us.navy.mil); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
LCDR USN (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Subject: RE: greetings - privacy act (PA) inquiry

(b) (6) –

[Redacted] (b) (5)

V/r,

(b) (6)

Capt (b) (6), USN  
Deputy Chief of Information  
U S. Navy  
(b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
703-695-0911 (office)  
(b) (6) (mobile)

From: (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Sent: Wednesday, November 24, 2021 2:16 PM  
To: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Cc: (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil); (b) (6) CIV USN (USA); (b) (6) [civ@us.navy.mil](mailto:civ@us.navy.mil); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
LCDR USN (USA); (b) (6) [mil@us.navy.mil](mailto:mil@us.navy.mil)  
Subject: Fwd: greetings - privacy act (PA) inquiry

(b) (5)  
Very Respectfully,  
(b) (6)

From: (b) (6) CAPT USN DCNO N3N5 (USA) (b) (6) mil@us navy mil>  
Sent: Tuesday, November 23, 2021 5:03 PM  
To: Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
Cc: OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL <OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL@navy.mil>; (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) mil@us navy mil>; (b) (6) CAPT USN DCNO N1 (USA) (b) (6) mil@us navy mil>; (b) (6) CAPT USN DCNO N3N5 (USA) (b) (6) mil@us navy mil>; (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) mil@us navy mil>; (b) (6) CDR USN DCNO N1 (USA) (b) (6) mil@us navy mil>

CDR USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @navy mil>; (b) (6) LT USN NAVY JAG WASH DC (USA)  
(b) (6) mil@us navy mil>  
**Subject:** RE: greetings - privacy act (PA) inquiry

CDR Sharpe,

I copied people on the cc line who have cognizance over the records that are being collected. I will defer to them.

I also want to be clear about the request. Your email indicates that you are asking on behalf/representing a group of Sailors ("There are some" "available to us").

With your Operations Officer title, it is not clear to me what leadership role you play in the organization as opposed to a Chief of Staff, Executive Officer, or Commanding Officer.

If you are making this request on behalf of yourself, request you clarify that.

Respectfully,  
CAPT (b) (6)

CAPT (b) (6) USN  
OPNAV N3N5 COVID-19 LEAD  
Pentagon 1D721  
SVOIP 302-221-2425  
Comm (703) 614-9250  
DSN (312) 224-9250  
Cell (b) (6)  
SIPR: (b) (6) @navy.smil.mil  
JWICS: (b) (6) @nmic.ic.gov

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Sent:** Tuesday, November 23, 2021 4:30 PM  
**To:** OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL <[OPNAV\\_COVID\\_CRISIS\\_RESPONSE\\_CELL@navy.mil](mailto:OPNAV_COVID_CRISIS_RESPONSE_CELL@navy.mil)>  
**Subject:** greetings - privacy act (PA) inquiry

Team:

I just got off the phone w/ one of your O5's who suggested I put this question in email

Do you have POCs and/or policy in place as to fielding a request from a member directly WRT that member requesting under the Privacy Act his/her record as it exists in the vaccination status tracker? There are some who want to ensure that their status has been reported properly, and it would seem to me that the PA would give them the right to have their personal status reported back to them based on a simple Privacy Act request (see 5 USC 552a(d) (1)) Not sure if you have a POC who could be contacted on the N1 side (if they're the keepers of these records?) that you could make available to us, or if you have any add'l policy guidance as to how that would be handled

Thanks in advance

**CDR John F. Sharpe, USN, APR+M**  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)  
(301) 222-6283 (w)  
(703) 653-4075 (c)

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA); (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) @navy.mil; (b) (6) CIV DMA MS (USA); (b) (6) (b) (6) CAPT USN DMA MPHQ (USA)  
**Subject:** Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021  
**Date:** Wednesday, November 17, 2021 12:04:45 PM

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CDR Sharpe --

In accordance with NAVADMIN 256/21 para 4.b., your TAD orders to the Defense Media Activity are cancelled effective 1600 EST, 23 Nov 2021. You are to report for duty at CHINFO HQ virtually (via email or telephone) NLT 0800 EST, 24 Nov 2021, to CDR (b) (6) Deputy Asst. Chief of Information CHINFO (OI-8). He may be contacted at:

CDR (b) (6), USN  
Requirements, Policy and Professional Development (OI-8)  
Navy Office of Information (CHINFO)  
1200 Navy Pentagon, Rm 4B514  
Washington, DC 20350-1200  
Cell: (b) (6)  
Email: (b) (6).mil@us navy mil

V/r,  
(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** [Microsoft Outlook](#)  
**To:** [\[REDACTED\] CDR USN NAVCIVLAWSUPPACT DC \(USA\)](#)  
**Subject:** Delivered: RE: req for policy information/clarification  
**Date:** Friday, October 22, 2021 12:56:34 PM  
**Attachments:** [RE req for policy informationclarification.msg](#)

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Your message has been delivered to the following recipients:

(b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @navy.mil <mailto:(b) (6) @navy.mil>  
Subject: RE: req for policy information/clarification



**From:** [postmaster@mail.mil](mailto:postmaster@mail.mil)  
**To:** [john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)  
**Subject:** Delivery delayed:RE: req for legal opinion  
**Date:** Thursday, October 21, 2021 2:32:36 PM  
**Attachments:** [RE req for legal opinion.msg](#)

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Delivery is delayed to these recipients or groups:

[john.f.sharpe2.mil@dod365.mail.onmicrosoft.us](mailto:john.f.sharpe2.mil@dod365.mail.onmicrosoft.us) <[mailto:john.f.sharpe2.mil@dod365 mail.onmicrosoft.us](mailto:john.f.sharpe2.mil@dod365.mail.onmicrosoft.us)>

Subject: RE: req for legal opinion

This message hasn't been delivered yet. Delivery will continue to be attempted.

The server will keep trying to deliver this message for the next 1 days, 19 hours and 52 minutes. You'll be notified if the message can't be delivered by that time.

**From:** (b) (6) [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**Cc:** (b) (6) [CAPT USN OSD PA \(USA\)](#); (b) (6) [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** Direction from the CHINFO  
**Date:** Tuesday, November 9, 2021 4:47:05 PM

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CDR Sharpe –

You are hereby ordered to report in person to the Office of the Chief of Information (CHINFO), Room 4B463 in the Pentagon, no later than 0800, Monday, 15 November 2021. This will be your official duty location for the day or until dismissed. Uniform is service khaki. I have already communicated this requirement to CAPT (b) (6) in his capacity as commander of the DMA Navy Detachment SEPCOR to ensure compliance with this order.

V/r,

(b) (6)

Capt. (b) (6) USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

(b) (5)

(b) (5)

**From:** [REDACTED] [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**Cc:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** FW: COVID VACCINE DOCUMENTS  
**Date:** Tuesday, November 2, 2021 10:04:01 AM  
**Attachments:** [BUMED Memo of 3 Sep 21 Vaccine Interchangability.pdf](#)  
[ASD \(HA\) - COVID-19 Vaccination Memo - 14 Sep 21.pdf](#)  
[ASN M&RA Memo of 8 Sep 21.pdf](#)

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John –

In your previous notes you'd expressed interest in ensuring you received the fully licensed COVID vaccine. While any of the vaccines currently in use in the USA will fulfill the DoD requirement to be vaccinated, the above guidance relates to which vaccines meet the "fully licensed" marker in which you expressed interest. As previously noted, you can check with your PCM or use Tricare Online to get the vaccine scheduled at the Pentagon or other MTF. There are deadlines that are coming up fast beyond our local control so please treat this as a top priority for action. FYSA.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**To:** (b) (6) @navy.mil  
**Subject:** FW: COVID-19 VACCINATION ADMINISTRATIVE COUSELING/WARNING  
**Date:** Thursday, October 21, 2021 11:43:03 AM  
**Attachments:** [image001.png](#)

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FYI

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**From:** (b) (6) CIV DMA HQ DMA (USA) (b) (6) .civ@mail.mil>  
**Sent:** Wednesday, October 20, 2021 12:52 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** RE: COVID-19 VACCINATION ADMINISTRATIVE COUSELING/WARNING

John,

It states in the document that "Mandatory vaccinations can only use COVID-19 vaccinations that receive full licensure from the FDA, in accordance with FDA approved labeling and guidance." Although the form further states that military medical professionals **can use** the Pfizer-BioNTech vaccine doses distributed under a EUA to administer mandatory vaccines, it does not mean that you are **mandated to take** a EUA vaccine. It simply means the medical staff can use them.

I would run this through the CHINFO JAG to see what she says. I would request a legal opinion on whether the military can mandate use of a EUA vaccine when the only FDA fully licensed Covid-19 vaccine, Comirnaty, is not available in the United States.

V/r,  
(b) (6)

*Ms. (b) (6)*  
*General Counsel*  
*Defense Media Activity*  
*6700 Taylor Avenue*  
*Fort Meade, MD 20755-7061*  
(b) (6) .civ@mail.mil  
(301)222-6302 (o)  
(b) (6) (c)



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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Cc:** (b) (6) CAPT USN DCNO N3N5 (USA); (b) (6) CDR USN CHINFO WASHINGTON DC (USA);  
(b) (6) CIV USN (USA); (b) (6) CPO USN (USA)  
**Subject:** FW: COVID-19 VACCINATION REPORTING REQUIREMENT  
**Date:** Tuesday, November 9, 2021 1:03:43 PM  
**Attachments:** [COVID-19 VACCINATION REPORTING REQUIREMENT \(9.91 KB\).msg](#)

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LT (b) (6) –

(b) (5)

(b) (5)

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Tuesday, November 9, 2021 12:39 PM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
<(b) (6).mil@us.navy.mil>  
**Subject:** Re: COVID-19 VACCINATION REPORTING REQUIREMENT

CAPT:

I just provided a lengthy status report (serving as a full reply to your message below) to YNC for transmission to the Admiral and yourself. I copied the EA on the assumption that she or



YNC could print or forward, given the length, in a format most convenient for you and the boss.

A few quick replies to your email below are inserted between your points (which I put in bold).

**we have been directed to report the COVID status of all hands as it stands on 15 Nov.**

NAVADMIN 249/21 says no earlier than 15 Nov and no later than 19 Nov.

**I need you to request a medical or religious exemption immediately**

I address this point in my longer email, transmitted a few minutes ago.

**go to a MTF, get vaccinated, and provide us the documentation**

I need you pursuant to NAVADMIN 190/21 to tell me where the fully FDA-licensed vaccine is being administered pursuant to FDA labeling and guidance.

**If you do not intend to request a waiver or get vaccinated by 14 Nov., so that we can meet the 15 Nov. reporting requirement, please clearly state your refusal to receive the COVID vaccine.**

I will not state my refusal to receive the COVID vaccine because I have not refused to get a fully FDA-licensed vaccine. I would ask you to clearly state whether you are ordering me to receive an unlicensed COVID vaccine. I would be happy to provide a clear response to that statement. In its absence, all we can say is that I have been ordered to receive vaccination with a product that does not exist, and I am waiting to be told when the product comes into existence and is available. In such a case the concept of "refusal" is wholly and utterly inapplicable.

Very respectfully,

**CDR John F. Sharpe, USN, APR+M**

Operations Officer

Mission Support Line of Business

Defense Media Activity

6700 Taylor Avenue

Fort Meade, MD 20755

john.f.sharpe2.mil@mail.mil

(301) 222-6283 (w)

(703) 653-4075 (c)

**From:** [REDACTED] [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**Cc:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#); (b) (6) [CIV USN \(USA\)](#)  
**Subject:** FW: Communication WRT COVID-19 vaccination, Page 13, etc. per (inter alia) 10 USC 1034  
**Date:** Tuesday, November 9, 2021 2:43:27 PM

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LT (b) (6) –  
(b) (5).  
V/r,  
(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Tuesday, November 9, 2021 12:22 PM  
**To:** (b) (6) CPO USN (USA) (b) (6).mil@us.navy.mil>  
**Cc:** (b) (6) CIV USN (USA) (b) (6).civ@us.navy.mil> (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>; (b) (6)@navy.mil; (b) (6)@us.navy.mil  
**Subject:** Communication WRT COVID-19 vaccination, Page 13, etc. per (inter alia) 10 USC 1034  
**Importance:** High

YNC et al:

This is respectfully submitted for RDML Brown's consideration in reply to last Thursday's communication which you forwarded from him. It serves as a reply as well to the emails to me from the Deputy, CAPT (b) (6), both from that same day and from yesterday afternoon. I appreciate your passing it on to both of them.

I apologize for the length of this email and the timing of its transmission, which is later than I had intended and hoped; the only justification I can offer is the seriousness of the matter that it addresses. I thank the Admiral in advance for taking the time to consider its contents.

As a threshold matter I would like to point out (though I hope it will prove unnecessary to have mentioned) that this reply also serves as a more general report constituting a reprisal-protected communication under 10 U.S.C. 1034(c)(2) and the 2014 NDAA Sec. 1709 and its implementing department and service regulations.

Since receiving on October 25 the correct Page 13, I've been diligently working to

understand precisely the scope of the order it memorializes, based on its language, so that I can formulate a proper response to the Page 13 and course of action. My effort has included a thorough review of all relevant and readily accessible statutes, regulations, and administrative decisions and guidance from the DoD, DoN, DHA, and FDA.

I confess that, while I have made a lot of progress coming to understand the broad DoD-wide effort to vaccinate service members against COVID-19, I haven't made much progress coming to a clear understanding of what the Page 13 is ordering. I am not asserting any blanket unwillingness to sign the Page 13, or any unwillingness to comply with any lawful order; nor am I foreclosing the possibility of requesting an exemption from the scope of the order, once I fully understand what that is, via the religious accommodation process, if I believe that necessary. Not at all.

What I am saying is that I consider myself entitled, as a matter of basic due process and fundamental fairness, to fully understand the order memorialized on the Page 13 before initialing that I in fact understand it, and undertaking any further appropriate actions based on the actual and precise scope of that order. I believe this matter of mutual straightforwardness is both our right and our obligation, based on numerous, and obvious, sources, such as inter alia our Navy Core Values (which mandate observance of "an uncompromising code of integrity" and the "highest degree of moral character"), Title 10, U.S.C., which requires officers to display "exemplary" conduct, and Navy Regulations, which require all service members to comply scrupulously with applicable laws, regulations, and lawful orders from superiors.

Moreover, my expectation of a full, clear, and precise understanding of the order in light of relevant legal authorities is a matter of cultural instinct, based on years of training not only as a professional communicator (a profession where words matter) but also as a DoE and DoN Certified Nuclear Engineer Officer. If that latter certification did anything, it taught me to read and re-read manuals, instructions, and regulations, to follow them to the letter, and to reasonably expect that others, without exception, do the same. It also taught me to safeguard the integrity of, and set an example for, our junior personnel, who rightly look up to more senior officers as models of good behavior.

On the submarine we used to remind our mechanics and electricians and reactor electronics technicians of how wrong it would be – on so many different levels – to record on reactor-maintenance paperwork a reading that would be "in specification," if the actual reading was out of spec, just to avoid hassle, inconvenience, or worse. That circumstance – that we used to train our folks to not get into – is eerily similar to what's happening today, where those same junior folks are being told to accept as "mandatory" a vaccine from a bottle that conspicuously says "Emergency Use Authorization" (EUA) and whose associated EUA from the FDA expressly says "All descriptive printed matter . . . clearly and conspicuously shall state that: This product has not been approved or licensed by FDA." Can we reasonably expect that by creating a culture where junior personnel are trained to "look the other way" with regard to something as personal as accepting a vaccine that they are told by their leaders' medical providers and attorneys is "fully licensed," but whose actual regulatory paperwork declares is "not . . . approved or licensed," we won't be undermining the very honesty and integrity upon which the safety records of Navy Nuclear Power, Naval Aviation, and so many other potentially life-threatening career fields – and the lives of the professionals in those fields – depend? It seems unlikely.

So where I admit to being stumped by the Page 13 is its order explaining (correctly), with respect to the FDA product Comirnaty, that SECDEF has established that “[m]andatory vaccination can only use COVID-19 vaccines that receive full licensure from the FDA, in accordance with FDA-approved labeling and guidance,” and continuing to state (less correctly) that Navy medical providers are “authorized” to use doses of the Pfizer-BioNTech COVID-19 Vaccine “distributed under . . . [EUA] to administer mandatory vaccinations.” The ALNAV and NAVADMIN messages referenced in the Page 13 make the same initial observation – that mandatory vaccination will use fully licensed FDA vaccines, but they are silent when it comes to authorizing commanders or others to order mandatory vaccination of service members with non-fully-licensed products. On its face, the language of the Page 13 appears to contradict the explicit direction of the Secretaries of Defense and of the Navy and of the Chief of Naval Operations and to posit a logical contradiction – namely, that a biological product is authorized for emergency use and fully licensed at the same time (notwithstanding the language of Section 360bbb-3((b)(2)(A) of U.S. Code, Title 21, which incontrovertibly makes such a case impossible).

Since receiving the Page 13, I have also made the successful effort to obtain copies of the memoranda circulated by staff judge advocates and others involved in the Navy COVID-19 response that maintain that healthcare providers “can” use products previously distributed (i.e., prior to the 23 August 2021 licensure of Comirnaty) under EUA to administer mandatory vaccinations. One of the memoranda even goes so far, apparently, as to *direct* medical providers to use the EUA product (using terms such as “will” and “should” – although with respect to the latter term, the cited authority [notwithstanding the fact that it is no more than a public-facing FDA web page for lay audiences] says “can” rather than “should,” regrettably suggesting that the author of the memo either knowingly or mistakenly [but in any case falsely] represented the FDA’s web-based statement).

The hang up I have with these memoranda, respectfully, is that they are not applicable to, insofar as they do not and cannot direct (per, e.g., Navy Regs Arts 1021, 1025), the actual service members who are to permit themselves to be vaccinated (because those service members are not the subordinates of the relevant healthcare officials, and the latter do not and arguably cannot order anyone to submit to vaccination with an EUA product; they only purport to permit one to be administered [seemingly, however, and slightly misleadingly, over the objection of a non-consenting recipient]). Alternatively, they flatly contradict the guidance promulgated by the officials who Title 10 of the U.S. Code affords *complete authority, direction, and control* over the DoD and the DoN. So to avoid construing the memoranda as contravening the express orders of SECDEF, SECNAV, and CNO, along with the large volume of statutory and regulatory law and FDA and DHA guidance that narrowly limit service vaccination requirements to those that can be accomplished with fully licensed FDA products, one is forced to conclude that, while healthcare providers “may” use EUA-products to accomplish vaccination of the force against COVID-19, they may only do so *with the consent of the vaccinee*, who retains an option to decline to be vaccinated with anything but a fully licensed FDA product, as indicated by applicable FDA labeling (which is, in turn, referenced and incorporated by both the SECDEF directive and the Page 13). I would be glad to provide, for your reference, copies of statutes, regulations, and FDA or other material that make this conclusion clear. (It may be useful to know in this connection, and just anecdotally, that vaccinations occurring at the Ft. Meade MTF, where I attempted to find the licensed vaccine last week, are providing paperwork to potential vaccinees informing them of their

option to decline the very vaccine that the above-referenced memoranda suggest “will” be used for “mandatory” vaccination. As it happens, their forms are outdated by several months, but those that are most recent [DHA Form 207 v 15 {Oct. 21} and the FDA/Pfizer Fact Sheet for Healthcare Providers Administering Vaccine {29 Oct 21} convey the same information]).

Incidentally, and as further indication of my good-faith due diligence, I ran this issue past the OPNAV COVID CELL, but my effort merely produced copies of the aforementioned memoranda, the boilerplate Page 13, and an interesting albeit not wholly relevant discussion of the success of the polio vaccine and FDR’s medical history. I made the same effort, at a slightly earlier stage, to inform the Admiral’s SJA at OJAG (Code 13) of this legal issue; her response, like the COVID cell’s, was cordial and unhelpful; she offered no explanation as to the legality of an order that appears to mandate vaccination with an optional vaccine, and simply suggested I contact a defense lawyer.

With the foregoing in mind, I have been – also since the October 25 receipt of the Page 13, and upon completion of the research alluded to above – diligently and almost single-mindedly attempting to establish the reasonably local availability of Comirnaty. By way of another anecdote, I learned from the duty doctor at the Ft. Meade shot clinic (I can provide name and contact information if needed) that to his knowledge Comirnaty is not available, not in the DoD supply system, and not planned for manufacture in the foreseeable future. While this is only one data point, it is consistent with information available from authoritative sources such as NIH’s National Library of Medicine, the FDA’s National Drug Code Directory, FDA administrative decisions, and even our SJA’s internal bulletins. I have even enlisted support of colleagues similarly in search of the FDA-licensed product, and they too are coming up short (a negative report from Walter Reed being one of the most recent). However, unless directed otherwise, I will continue personally to hit locations throughout the National Capital Region (NCR) in an effort to establish the availability of the vaccine product that SECDEF, SECNAV, and CNO have indicated is to be used for mandatory vaccination.

For the Admiral’s further awareness, the added complication at this point is that the current position of the Executive Branch WRT the interchangeability of the Pfizer vaccine and Comirnaty is no longer what it was when the above-mentioned memoranda were issued in early September (with, oddly, the lowest authority acting first and the highest authority acting last via an undated document). The current position, based on very recent information from the relevant officials at FDA and DHA (and even from DOJ), is that only certain lots of the Pfizer vaccine are susceptible of being administered to service members without affording them the option to decline to receive it. This is claimed on the basis of the certain lots meeting the manufacturing and other requirements of the fully licensed product. (The problem with this is, inter alia, that they are still labeled as “EUA”; the most current paperwork being distributed by MTFs from DHA references the FDA fact sheets that still afford service members the “option to decline”; the FDA authorization itself confirms the obligation of memorializing in FDA labeling the requirement of healthcare providers to inform vaccine recipients that they have “the option to accept or refuse,” and, finally, SECDEF’s order still explicitly mandates compliance with FDA labeling and guidance.) In any event, to run this option down, just to see if compliance with the more narrow (albeit questionable) requirement is even possible, I have contacted DHA officials in search of the licensed lots. DHA passed my inquiry on to BUMED personnel, whom I have not heard from. I have also personally sought out the allegedly license-compliant vaccine lots, but Ft. Meade has not had them for some time. But I will continue the effort in conjunction with my search around the NCR for Comirnaty.

As I already indicated to the Deputy, I recognize that “on paper” there are complications with respect to my becoming “fully vaccinated” on the ostensible timeline set forth by the relevant NAVADMIN messages. But these complications stem most glaringly from the product-availability issue noted above (making it in fact impossible even for those who would opt not to seek an exemption to become fully vaccinated), as well as from the fact that I received the first personally addressed vaccination order after the date on which I would have had to initiate vaccination with the fully licensed product, in the event I had at that time been certain I did not wish to seek an exemption. Adding to the chronological confusion is the fact that the Page 13 which I am being asked to sign indicates that I have 10 days from the date of my signature thereupon to request an administrative exemption from the order, whatever its scope. And the most recent email (from Thursday) advising me of the possibility of a Special Fitness Report indicates that such a report will be issued if I “refuse the vaccine” and do not have a pending exemption request 30 days from the date of “this” order. “This” can only refer to the order from last Thursday – and not an order that came from SECDEF, SECNAV, or CNO on, respectively 23, 30, and 31 August – as we are well past 30 days from those dates.

As far as my outstanding action items:

a. Page 13. As explained, and in summary, I need to understand the scope of the order it appears to be giving – namely, to voluntarily accept vaccination with a non-fully-FDA-licensed product, contrary to SECDEF/SECNAV/CNO direction, and to FDA labeling and guidance:

- 1) Does the order direct me to present myself for vaccination with a not-fully licensed EUA product?
- 2) If so, is it the Admiral’s intention that by signing the Page 13 I waive my right to decline receipt of such a product?
- 3) If not, and given that the fully licensed FDA product is not available, how is the order to be complied with?

b. Timing and intent to submit any religious accommodation request.

1) As detailed above, it is not practically possible for me to meet time requirements for full vaccination with the fully licensed vaccine, due to its unavailability (and even the unavailability of the allegedly license-compliant, EUA-labeled lot numbers), and due to the length of time it would take to become fully vaccinated even were the fully licensed product available at this point. Deputy (b) (6) direction from yesterday to “go to an MTF [and] get vaccinated” appears not to appreciate the relevant timelines.

2) As noted in an email I sent him some time ago, NAVADMIN 190/21 requires that commanders provide service members with “information and guidance regarding vaccine availability and administering locations.” I requested this information nearly 2 weeks ago and have yet to receive it as regards any product, let alone with respect to the fully licensed FDA product (which, again, is the only one that can be made mandatory per the express direction of SECDEF, SECNAV, and CNO). DCI (b) (6) as recently as yesterday said “go to a MTF, get vaccinated, and provide us the documentation,” but there is no indication in his message where a fully licensed (and therefore mandatory) vaccine product can be found. Once again,

therefore, and a third time: I request that CNO's direction be followed, and that I be provided with precise vaccine availability and treatment location information with respect to the vaccine that can be made mandatory.

3) As noted above, it is not clear if the Admiral's order is directing that I allow myself to be vaccinated with an EUA product or with a fully licensed product. If the former, there is no need to submit an accommodation request, as, respectfully, there is no lawful order from which I would need to request a waiver. If the latter, any relevant accommodation request could arguably (and quickly) be submitted when the means of complying with the order materialize (in other words, once someone tells me, as the NAVADMIN unequivocally requires, that the licensed product is available and where it can be had). Accommodation requests are, ultimately, simply an administrative means of memorializing protection for the exercise of Constitutionally (and statutorily) protected First-Amendment rights. DoD and DoN regulations governing the accommodation process establish that the process begins on the initiative of the service member. They, naturally, articulate no deadlines for the submission of a request that is inherently discretionary, and they impose no requirement upon a service member that he anticipate and request exemption from a future policy or prematurely request waiver of a policy that is either illegal or cannot be implemented. And a close and careful reading, in any event, of the 24 August SECDEF memorandum and the relevant NAVADMINs yields the result that to avoid being classified as a "vaccine refuser" a service member would only need to have submitted an accommodation request in time for it to be "pending" on 28 November. Finally, neither the Constitution, nor statute, nor regulation would permit a federal agency to refuse to consider an accommodation request on the basis of its not being made prior to an arbitrarily established deadline. (The only case in which the timing of an accommodation request would affect its validity is where the request's timing is indicative of insincerity, e.g., the case of an accused who submits an accommodation request as [effectively] a First-Amendment defense to a charge but where the burden to the free exercise of religion is only alleged after charges are proffered or punishment is imposed. In this case, from the moment DCI (b) (6) queried my vaccination status on 15 October, I signaled my religious-based concerns as well as the likelihood or at least possibility of my filing an accommodation request.)

4) In view of the above, I am happy to confirm hereby my intention to submit an accommodation request if and when the SECDEF/SECNAV/CNO directives for mandatory vaccination with a fully licensed product consistent with FDA labeling and guidance can and will be properly implemented, on the basis of both a legally correct interpretation of those directives and the availability of the relevant product. I believe that to request an accommodation for waiver of a policy that, as it stands, cannot be implemented without being interpreted and effectuated in a manner plainly contrary to law, would be to acquiesce in and condone the ongoing and apparently systemic illegality of the current approach to implementing the vaccination directive – something highly improper for a commissioned officer of the armed forces of the United States and contrary to the authorities summarized elsewhere herein, which require his conduct to be at all times beyond reproach and, most especially, an example to junior personnel of integrity, respectful candor, and moral courage. This seems especially clear where the orders of the subordinates to SECDEF/SECNAV/CNO make no apparent effort to restrict the orders' scope to the terms of the DoD and DoN leadership direction, but instead boldly and blatantly depart from those terms and purport to impose that departure on department personnel via an end-run through the healthcare provider

community. There is not only no room in government for such regrettable conduct; in the case of affected or involved federal officers, to include myself, there is no room for allowing even the “appearance” – the term from the Executive Branch Standards of Ethical Conduct, 5 CFR 2635.101(b)(14)) – to be created of acquiescence in or to that conduct. Those Standards, rather, unequivocally and without exception require us to place loyalty to law and maintenance of public confidence in the integrity of the Government above all personal considerations (at 2635.101(a)).

Please assure the Admiral that it is not my intention to be uncooperative or insubordinate. Quite the contrary. I wish most sincerely to bring to his attention, first, the irregularity and apparent illegality of the order he delivered for me to present myself for vaccination with a non-fully licensed product (which I have no doubt he issued with the best of intentions, based on an incorrect “boilerplate form” drafted by attorneys whose work was, to say the least, regrettably unprofessional) and, second, the corresponding concern it raises with respect to the numerous members of the naval service who may (likely) have been vaccinated against their will on the basis of memoranda (backed, again, by extremely poor legal advice) that contradict the straightforward commands of DoD and DoN leadership – in light of which my personal circumstance simply serves to illustrate and may hopefully be an occasion for the remedying of the wider and apparently systemic problem with the DoN’s approach to COVID-19 vaccinations.

The implications of that systemic problem are not pleasant to contemplate. At its worst, they include attorney misconduct, a good deal of misrepresentation, violation of Sailors’ Fifth-Amendment right to substantive due process, and behavior on the part of some that is hard to see as anything but criminal under both military and civil codes.

I also have every hope and confidence that, with the Admiral now being made aware of the irregularities with the mode in which DoN subordinates have implemented SECDEF’s directive, he will look into the matter himself, bring it to the attention of proper authority, and put a stop to any further violation of that directive insofar as he is able. This would help to avoid any further action, such as that contemplated by Navy Regulations Art. 1137 and SECNAVINST 5370.7E, as well as eliminate the possibility of his having any liability in this matter, whether in an official or personal capacity.

It is indeed with a somewhat heavy heart that I bring these matters to his attention, as I know that contemplating them is not appealing. But I do so in an effort to uphold the best traditions of the Naval Service, to comply with the exemplary conduct standard imposed upon me and all senior officers by Title 10, Navy Regulations, SECNAVINST 5350.15, and naval tradition, and to fulfill my duty under our Core Values – which, aside from the points already mentioned, oblige me (and all of us) to be honest and truthful, deliver bad news forthrightly, fulfill my legal responsibilities, and act in the best interest of the Department of the Navy without regard to personal consequences.

And, ultimately, I raise the issues herein detailed as a matter of the oath of office I (and all service members) have professed to uphold the Constitution. The Fifth Amendment to that Constitution protects American citizens from all deprivation of substantive due process, a legal concept that among other things protects one from a violation of his or her bodily integrity occasioned by the non-consensual administration of medical treatment. Navy Regulations Art. 1144, admittedly, requires service members to permit vaccination as



prescribed by proper authority, but, as VADM Merz has himself pointed out quite recently, service members are not forcibly vaccinated by way of physical coercion or constraint; instead, they are ordered *to permit themselves to be vaccinated* – in short, they are *ordered to consent*, and, *to comply with the order, they consent*. So there is always a layer or level of consent to the violation of bodily integrity that a vaccination represents, even in a case where providing such consent is legally obligatory. Here, however, where authority has not properly prescribed vaccination with the product actually being administered, and cannot do so lawfully, service members’ “consent” to receipt of that product is obtained by an erroneous representation that such receipt is legally obligatory. As a result, the consent is fraudulently obtained, and void, and the consequent violation of service members’ bodily integrity rendered unquestionably violative of their rights under the Fifth Amendment. And that violation is likewise neither reversible, nor remediable, nor compensable, because, having been done, it cannot be undone. The Constitution does not permit this course of conduct, nor can anyone who took an oath to uphold it.

In closing, and on a couple of merely administrative notes, I would also ask you to request the Admiral to remind his Deputy to comply scrupulously with the requirements of OPNAVINST 5354.1G with respect to hostile or abusive conduct motivated by religious bias. I make no complaint (informal or otherwise) at this time; I merely note that a repeat of his October 15 exhortation – communicating, in effect, why it would be a “bad idea” to request a religious accommodation, and how such a course could lead (inexplicably?) to administrative separation, loss of benefits, and other adverse actions or penalties – might trigger one.

I am also aware of the reporting timelines imposed upon the Admiral by NAVADMIN 249/21, and I recommend that you report my vaccination status as either (5) (unvaccinated, pending religious accommodation exception) or (7) (unvaccinated, has not had access to vaccination) – on the basis of, in the first case, my stated intention to submit an accommodation request in the event the occasion for doing so arises, as detailed above, or, in the second, the non-availability of the fully FDA licensed vaccine product. Alternatively, you might recommend that OPNAV create a category (8) for the unvaccinated who reserve the right to submit a religious accommodation request if or when the DoN obtains stock of the product needed to lawfully implement COVID vaccination policy. In addition, please feel free to include this message with the vaccination status report that is due to the OPNAV COVID Cell in the event it would be useful in explaining the particulars of my status. I will provide it to them next week or the following for incorporation into the results of their COVID-19 vaccination data call. I will also provide a copy to the relevant OJAG codes in an attempt to help them avoid any undesirable consequences that might otherwise arise under JAGINST 5803.1E.

I thank the Admiral sincerely and most warmly for his careful consideration of the foregoing, and look forward to his reply to the questions listed above under subparagraph “a” relating to the Page 13.

Very respectfully submitted,

**CDR John F. Sharpe, USN, APR+M**  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue

Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

**From:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**To:** (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA); (b) (6) LCDR USN NAVCIVLAWSUPPACT DC (USA); (b) (6) LT USN RLSO SW BROFF LEM CA (USA)  
**Subject:** FW: Direction from the CHINFO  
**Date:** Tuesday, November 9, 2021 4:54:00 PM

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Good afternoon,

(b) (5)

Thank you so much!

V/r

(b) (6)

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>  
**Sent:** Tuesday, November 9, 2021 4:47 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Cc:** (b) (6) CAPT USN OSD PA (USA) <(b) (6) .mil@mail.mil>; (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Subject:** Direction from the CHINFO

CDR Sharpe –

You are hereby ordered to report in person to the Office of the Chief of Information (CHINFO), Room 4B463 in the Pentagon, no later than 0800, Monday, 15 November 2021. This will be your official duty location for the day or until dismissed. Uniform is service khaki. I have already communicated this requirement to CAPT (b) (6) in his capacity as commander of the DMA Navy Detachment SEPCOR to ensure compliance with this order.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**Subject:** FW: Direction from the CHINFO  
**Date:** Wednesday, November 10, 2021 8:39:05 AM

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LT (b) (6) –

(b) (5)

(b) (6)

(b) (6)

(b) (6)

(b) (6)

(b) (6)

(b) (6)

V/r,

(b) (6)

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**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>

**Sent:** Wednesday, November 10, 2021 7:58 AM

**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)

(b) (6) .mil@us.navy.mil>

**Cc:** (b) (6) CAPT USN OSD PA (USA) (b) (6) .mil@mail.mil>; (b) (6) CDR

USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>; (b) (6)

A CIV DMA MS (USA) (b) (6) .civ@mail.mil>

**Subject:** RE: Direction from the CHINFO

CAPT:

Wilco. Two follow-up questions:

1. So I can be prepared for the tasking (or whatever) this involves, please let me know why I am reporting to CHINFO spaces on Monday.
2. Give my effectively permanent TAD to DMA, does this summons affect that status at all? (Understand that permanent TAD is somewhat contradictory, but that's basically what it is.)

Additionally, just FYI, insofar as my status at DMA is in virtue of a TAD assignment, I do not report to CAPT (b) (6) in his capacity as head of the Navy Element at DMA for personnel accounting or supervisory/subordinate purposes. My day to day supervisor is Mr. (b) (6) (GS-15), copied above. Naturally I am more than ready and willing to work with CAPT (b) (6) in any way that you might direct. I have already touched base with him, had a rather lengthy conversation with him yesterday, and shared the relevant correspondence to bring him up to speed.

v/r

**CDR John F. Sharpe, USN, APR+M**

Operations Officer

Mission Support Line of Business

Defense Media Activity

6700 Taylor Avenue

Fort Meade, MD 20755

john.f.sharpe2.mil@mail.mil

(301) 222-6283 (w)

(703) 653-4075 (c)

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)

(b) (6).mil@us.navy.mil>

**Sent:** Tuesday, November 9, 2021 4:47 PM

**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>

**Cc:** (b) (6) CAPT USN OSD PA (USA) (b) (6).mil@mail.mil>; (b) (6) CDR  
USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>

**Subject:** Direction from the CHINFO

CDR Sharpe –

You are hereby ordered to report in person to the Office of the Chief of Information (CHINFO), Room 4B463 in the Pentagon, no later than 0800, Monday, 15 November 2021. This will be your official duty location for the day or until dismissed. Uniform is service khaki. I have already communicated this requirement to CAPT (b) (6) in his capacity as commander of the DMA Navy Detachment SEPCOR to ensure compliance with this order.

V/r,

(b) (6)

Capt. (b) (6), USN

Deputy Chief of Information

U.S. Navy

(b) (6).mil@us.navy.mil

703-695-0911 (office)

(b) (6) (mobile)

(b) (5)

**From:** [REDACTED] LT USN NAVY JAG WASH DC (USA)  
**To:** (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA); (b) (6) LCDR USN NAVCIVLAWSUPPACT DC (USA); (b) (6) LT USN RLSO SW BROFF LEM CA (USA)  
**Subject:** FW: REQUEST FOR REDRESS  
**Date:** Wednesday, November 24, 2021 8:48:00 AM  
**Attachments:** [ltr to CHINFO of 23 Nov 21 signed.pdf](#)  
**Importance:** High

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**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>  
**Sent:** Wednesday, November 24, 2021 7:44 AM  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6) .mil@us.navy.mil>  
**Cc:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>; (b) (6) LCDR USN (USA)  
(b) (6) .mil@us.navy.mil>  
**Subject:** FW: REQUEST FOR REDRESS  
**Importance:** High

(b) (6),

(b) (5)

Very Respectfully,

CDR (b) (6), APR+M  
Executive Assistant to the Chief of Information (CHINFO)  
1200 Navy Pentagon 4B463  
Washington, DC 20350  
(b) (6) .mil@us.navy.mil  
703.697.7392 (o)  
(b) (6) (c)

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**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Tuesday, November 23, 2021 10:41 PM  
**To:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>; (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>; john.sharpe@charter.net  
**Subject:** REQUEST FOR REDRESS  
**Importance:** High

Admiral,

The attached is respectfully submitted for your consideration and action. In sum it requests modification or reversal of your recent orders WRT vaccination, modification of my reported status as "unvaccinated, refuser," restoration of my temporary assignment to DMA, and other ancillary relief.

Thank you in advance for your attentive consideration.

PS I am copying my personal email which I would ask you to keep on the cc line. In view of my transfer away from DMA the mail.mil email will be in a transitional status and may not be functioning for much longer. My NMCI account is being recreated now but may not be up and running for anywhere from several days to a couple of weeks.

v/r

**CDR John F. Sharpe, USN, APR+M**

john.f.sharpe2.mil@mail.mil

(703) 653-4075 (c)



**From:** [REDACTED] LT USN NAVY JAG WASH DC (USA)  
**To:** (b) (6) LT USN RLSO SW BROFF LEM CA (USA); (b) (6) LCDR USN NAVCIVLAWSUPPACT DC (USA)  
**Subject:** FW: REQUEST FOR REDRESS  
**Date:** Tuesday, November 30, 2021 3:00:00 PM  
**Attachments:** [ltr to CHINFO of 24 Nov 21 w encl \(1\).pdf](#)  
[RE Cancellation of TAD orders to DMA effective 1600 EST 23 Nov 2021 \(20.5 KB\).msg](#)

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(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>  
**Sent:** Wednesday, November 24, 2021 5:59 PM  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6) .mil@us.navy.mil>; (b) (6) ,  
(b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Cc:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>  
**Subject:** Fwd: REQUEST FOR REDRESS

(b) (5)

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**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, November 24, 2021 2:57 PM  
**To:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); john.sharpe@charter.net  
**Subject:** RE: REQUEST FOR REDRESS

Admiral,

Thank you for your acknowledgment. Attached for your review at your convenience is a follow-up submission correcting several typographical errors and omissions. I regret and apologize for the inconvenience of an additional email.

I hope you have a nice holiday break.

v/r

CDR Sharpe

---

**From:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
<charles.w.brown2.mil@us.navy.mil>

**Sent:** Wednesday, November 24, 2021 2:08 PM

**To:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>

**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)

(b) (6) .mil@us.navy.mil>; (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)

(b) (6) .mil@us.navy.mil>; [john.sharpe@charter.net](mailto:john.sharpe@charter.net)

**Subject:** Re: REQUEST FOR REDRESS

CDR Sharpe,

I received your request for redress. My response will be forthcoming.

V/r,

cb

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>

**Sent:** Tuesday, November 23, 2021 7:41 PM

**To:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)

**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); [john.sharpe@charter.net](mailto:john.sharpe@charter.net)

**Subject:** REQUEST FOR REDRESS

Admiral,

The attached is respectfully submitted for your consideration and action. In sum it requests modification or reversal of your recent orders WRT vaccination, modification of my reported status as "unvaccinated, refuser," restoration of my temporary assignment to DMA, and other ancillary relief.

Thank you in advance for your attentive consideration.

PS I am copying my personal email which I would ask you to keep on the cc line. In view of my transfer away from DMA the mail.mil email will be in a transitional status and may not be functioning for much longer. My NMCI account is being recreated now but may not be up and running for anywhere from several days to a couple of weeks.

v/r

**CDR John F. Sharpe, USN, APR+M**

[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)

(703) 653-4075 (c)

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** FW: [Non-DoD Source] RE: req for policy information/clarification  
**Date:** Monday, November 15, 2021 9:32:00 AM  
**Attachments:** [ASN M&RA Memo \(Pfizer Vaccine\) 08Sep21.pdf](#)  
[BUMED memo \(Interchangeability of FDA-Approved Pfizer Vaccines\) 03Sep21.pdf](#)  
[ASD COVID-19 COMIRNATY EUA-BLA equivalent memo v3.1 clean \(DIGITAL\).pdf](#)

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**From:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Sent:** Friday, October 22, 2021 5:09 PM  
**To:** john.sharpe@charter.net; (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA)'  
(b) (6) @navy.mil>  
**Cc:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** RE: [Non-DoD Source] RE: req for policy information/clarification

Good afternoon Sir,

Please see attached memoranda for more specific discussion related to your inquiry.

V/r

LT (b) (6)

---

**From:** John Sharpe <john.sharpe@charter.net>  
**Sent:** Friday, October 22, 2021 4:06 PM  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6) .mil@us.navy.mil>; (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA)' (b) (6) @navy.mil>  
**Cc:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** [Non-DoD Source] RE: req for policy information/clarification

Thanks (b) (6). I can't say your reply is surprising or particularly helpful. But thanks for responding.

BT

(b) (6). I have reviewed the websites your LT provided and find them interesting but not relevant to the question I put to her. Are you – with your “COVID Vaccine” hat on – able to provide any policy or legal authority (issuance/regulation/etc.) that substantiates RDML Brown's assertion on the Page 13 he gave me that “Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations”?

As you may recognize, the operative word is “authorized.” Authorized by whom? Where is that memorialized? The fact that the statement contradicts SECDEF's explicit 24 August 2021 order makes the need for such legal authority pressing.

For what it is worth, I am not a “vaccine refuser” – to get that out of the way – and I have not

applied for any kind of medical or administrative exemption. I am a Rickover-trained "Nuke" who reads and follows written authorities. Where is the written authority that would permit me to safely and legally acquiesce in what would otherwise appear to be a direct violation of SECDEF's unambiguous directive?

Please advise.

r/

CDR JF Sharpe, USN

**John Sharpe**

[john.sharpe@charter.net](mailto:john.sharpe@charter.net)

(757) 645-1740 (h)

(757) 332-2074 (c)

---

**From:** (b) (6) LT USN NAVY JAG WASH DC (USA) [mailto:(b) (6).mil@us.navy.mil]  
**Sent:** Friday, October 22, 2021 12:56 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** john.sharpe@charter.net; (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA)  
**Subject:** RE: req for policy information/clarification

Good morning Sir,

Confirming receipt of your email. It looks like your CAC certificates may be causing some issues, so leaving your personal email on the cc line and requesting a delivery receipt.

Please reach out to admin or CDR (b) (6) irt the temporary versus permanent entry concern.

To provide you with some additional information on Navy policy, you can find DON and DoD references and FAQs at the links below:

<https://www.navy.mil/US-Navy-COVID-19-Updates/>

<https://www.whs.mil/COVID-19/>

<https://no-click.mil/?https://health.mil/Military-Health-Topics/Combat-Support/Public-Health/Coronavirus>

To assist you with any other questions, the DSO North HQ contact information is below. They can speak to you confidentially and provide you with personal legal advice. Remote services are highly encouraged; see attached policy and procedure to get an appointment.

DSO NORTH HQ  
Mailing Address:  
1250 10th St., SE  
Bldg #200, Suite 1200  
Washington, DC 20374  
Contact:  
Comm: (202) 685-5595  
DSN: 325-5595  
Fax: (202) 685-5542  
DSONorthDefense@us.navy.mil  
Duty Officer: (202) 420-1267  
Walk-in Hours:  
Monday - Friday  
0900 - 1200

<https://no-click.mil/?>  
[https://www.jag.navy.mil/legal\\_services/documents/DSO\\_REMOTE\\_PERSREP\\_POLICY\\_ALL\\_OFFICES.pdf](https://www.jag.navy.mil/legal_services/documents/DSO_REMOTE_PERSREP_POLICY_ALL_OFFICES.pdf)

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Thursday, October 21, 2021 3:46 PM  
**To:** (b) (6) @navy.mil; (b) (6) LT USN NAVY JAG WASH DC (USA) <(b) (6).mil@us.navy.mil>  
**Cc:** john.sharpe@charter.net  
**Subject:** req for policy information/clarification  
**Importance:** High

(b) (6),

Thanks for the conversation just now. As requested, below are the two legal policy or command-level questions I'd like your assistance resolving if you can get any clarification within the scope of your role as SJA for the command rather than in any capacity of advocate for a specific member. As you know, I got a quick read on this from the GC here to work through my local chain of command, but she understandably sent me to you as SJA for the parent command.

1. The Administrative Remarks (NAVPERS 1070/613 ["Page 13"]) I am being asked to sign rightly asserts that SECDEF has directed full vaccination of service members and that mandatory vaccination "can only use COVID-19 vaccines that receive full licensure from the FDA." It goes on to state however that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization [EUA] to administer

mandatory vaccinations." This would appear to be a misstatement of the law or of regulations having the force of law.

- a. SECDEF has without qualification directed solely the use of fully licensed vaccines - necessarily excluding the use of a vaccine available under an EUA. SECDEF's 24 Aug 21 memo makes no provision for the use of an EUA vaccine that the FDA asserts has the "same formulation" as the licensed product.
- b. The FDA maintains that, although the two products (Comirnaty and the BioNTech COVID-19 Vaccine) "can be used interchangeably to provide the COVID-19 vaccination series," they nevertheless have "certain differences" and "are legally distinct." This has been reaffirmed as recently as yesterday in the FDA's 20 Oct 21 revision of the BioNTech EUA.
- c. In addition, the products have to be distinct as a matter of law, insofar as an EUA can only be issued for a product that is not approved under, inter alia, Section 351 of the Public Health Service Act (which Comirnaty is), and the EUA recently re-issued in its entirety for BioNTech covers the administration of a 2-dose vaccine for persons 12 and older (overlapping with the BLA for Comirnaty which licenses the vaccine for persons 16 and older). See Food, Drug, and Cosmetic Act Section 564(a)(2), 108 Pub. L. 136, 117 Stat , 1392, 1684 (codified as 21 U.S.C. 360bbb-3(a)(2)).
- d. BUMEDINST 6230.15B notes that a product not FDA-approved for the medically indicated use must be prescribed by an appropriate health care provider and "may not be administered to units under a force health protection strategy." (id. ¶ 5-1a).
- e. Finally, the FDA-issued Comirnaty package insert (with which SECDEF mandates compliance when he writes that mandatory vaccination be administered "in accordance with FDA-approved labeling and guidance") states that "there are no data available on the interchangeability of COMIRNATY with other COVID-19 vaccines to complete the vaccination series," which contradicts the Page 13 statement that "bioNTech doses" can be used to administer mandatory vaccinations.

With all that said, can you provide for my reference authority at the SECDEF or even any lower level authorizing the use of an EUA product in lieu of the fully licensed FDA product that SECDEF mandates? Is it possible that this language in the page 13 is spurious and not in accordance with the "uniform" NAVPERS 1070/613 that NAVADMIN 190/21 directs (at ¶ 3e(4)) be issued?

2. The Page 13 in question is also marked "permanent," meaning that it is to become a permanent part of my official military personnel file (OMPF). See generally MILPERSMAN 1070-320. The reference also requires an authority to be identified that in fact requires the permanent retention of the remarks; in the case of the page 13 I received, the listed authority is NAVADMIN 190/21. As noted, NAVADMIN 190/21 (¶ 3e(4)) requires issuance of a "uniform NAVPERS 1070/613." As also noted, it is questionable whether the Page 13 I received is the "uniform" page 13.

In any event, while the NAVADMIN does not authorize or direct that these remarks be filed in the OMPF, this is in fact a requirement mandated by the MILPERSMAN for such filing ("Permanent remarks entries. This designation applies to entries authorized or mandated by

regulation or correspondence from higher headquarters to be filed in the OMPF," id. Article 1070-320 ¶ 2c(2) (emphasis added); accord BUPERSINST 1070.27C enclosure (2) at 7, restricting the filing of administrative remarks to "only those required by regulation to be filed in permanent record" (emphasis added)). The NAVADMIN neither authorizes, mandates, nor requires the permanent filing of the Page 13 in the OMPF.

Because the OMPF on its face establishes that the remarks are adverse, in particular by affording the member 10 days to submit a statement (Navy Regulations Art. 1122; MILPERSMAN 1070-170 ¶ 2a; BUPERSINT 1070.27C enclosure (1) ¶ 1b(1)(a); see also JAGMAN § 0105 ¶ a), the permanent filing of such remarks in the OMPF without corresponding direction or authorization, contrary to law, especially in view of the fact that administrative remarks are made available to selection boards, it would appear to be improperly stigmatizing. MILPERSMAN 1070-020 ¶ 6a(1).

As we discussed, members can appeal to BCNR for correction in their records of what would amount to both error and injustice, but that process is burdensome and lengthy, and when unnecessary also adversely affects BCNR staff as well as service members who genuinely require BCNR's services due to the complexity or age of their cases. It would appear more proper in this relatively easy instance that the Navy follow its own regulations in the first place - as Navy Regulations require, id. Art. 1130; accord SECNAVINST 5215.1F ¶ 5a - than to force members to resort to administrative or judicial processes, which waste the government's time and money as well as the members', to "encourage" Navy officials to do what they should already be doing.

As noted, it is not my intention to develop ANY controversial or antagonistic relationship with my parent command or reporting senior, or to even risk in any way precipitating an antagonistic dialog. This is my reason for raising the issue with you as a matter of DON and/or local-command policy rather than appearing to "push back" against my superior officer. I have no intention of failing to obey any and all lawful orders I may receive or of appearing to lack the properly subordinate and cooperative spirit that is required of military personnel.

My goal with this communication is simply to comply with my personal duty as a federal officer to obey and enforce laws, regulations and orders relating to the DON (Navy Regulations Art. 1130), to ensure that "[a]ll persons in the naval service ... obey readily and strictly, and ... execute promptly, the lawful orders of their superiors," id., Art. 1132, to "comply with applicable laws, regulations, Executive Orders, and DoD issuances," SECNAVINST 5215.1F ¶ 5a, and to show myself "a good example of virtue, honor, patriotism, and subordination" as Title 10, Section 8167 requires.

What I would also like to avoid is having service members put in the position of reconciling their duty of subordination with their duty to follow Navy Regulations Art. 1137, which requires them to "report as soon as possible to superior authority all offenses under the [UCMJ] which come under their observation." SECDEF's 24 Aug 21 memo is clearly a lawful order, a fact which, were it to be violated by any naval officer, implicates UCMJ Art. 92. See generally MCM Part IV ¶ 18c(1)(a). In this context I would suggest that you could easily justify requesting a legal opinion on these matters pursuant to 32 CFR 776.32(b) in order to assist all of us DON officials with meeting our legal obligations.

I am happy to send you reference documentation in support of the citations in the above.

Meanwhile, I am still standing by to receive the recommended contact information for DSO. Come to think of it, could I get you to text it to the cell phone which I used to call you just now in case the email doesn't come through for a while?

Thanks again for your time and assistance.

PS My personal email is copied because there is currently a known issue inside the DoD365-J MS Outlook environment interfering with email traffic to/from addresses outside that environment.

**CDR John F. Sharpe, USN, APR+M**

Operations Officer

Mission Support Line of Business

Defense Media Activity

6700 Taylor Avenue

Fort Meade, MD 20755

john.f.sharpe2.mil@mail.mil

(301) 222-6283 (w)

(703) 653-4075 (c)



**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Subject:** FW: [Non-DoD Source] minor correction - FROM CDR SHARPE  
**Date:** Tuesday, November 16, 2021 8:58:52 AM  
**Attachments:** [Sharpe ltr of 15 Nov 21-corr.pdf](#)  
**Importance:** High

---

(b) (6),

(b) (5)

Very Respectfully,

(b) (6)

---

**From:** (b) (6) LT USN CHINFO WASHINGTON DC (USA) <(b) (6).mil@us.navy.mil>  
**Sent:** Tuesday, November 16, 2021 8:56 AM  
**To:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6)@navy.mil>;  
(b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Subject:** FW: [Non-DoD Source] minor correction - FROM CDR SHARPE  
**Importance:** High

Ma'am,

From CDR Sharpe below.

Very respectfully,

LT (b) (6)  
Flag Aide to RDML Brown  
Navy Office of Information (CHINFO)  
1200 Navy Pentagon, 4B463  
Washington, DC 20350-1000  
Direct Office: 703.697.1922  
Email: (b) (6).mil@us.navy.mil  
(b) (6).@navy.smil.mil

---

**From:** John Sharpe <john.sharpe@charter.net>  
**Sent:** Tuesday, November 16, 2021 8:52 AM  
**To:** (b) (6) LT USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>  
**Cc:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** [Non-DoD Source] minor correction - FROM CDR SHARPE  
**Importance:** High

(b) (6)

Do you mind printing the attached revision to my 15 Nov 21 letter for me, and having CDR (b) (6) swap the copy she has for this one? After looking it over with fresh eyes, I found a few typos and formatting mistakes that would be worth clearing up.

Please confirm receipt and if you don't mind let me know when CDR [REDACTED] gets this. Just shred the old copy or do whatever you want with it!

Thanks!

PS I'm writing from a personal address to get around any NMCI/flankspeed trouble – but feel free to reply back to the DoD email if you need to confirm that this is coming from “the real me”!

**John Sharpe**

[john.sharpe@charter.net](mailto:john.sharpe@charter.net)

(757) 645-1740 (h)

(757) 332-2074 (c)

(202) 997-8154

**From:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**To:** (b) (6) CDR USN NAVCIVLAWSUPPACT DC (USA)  
**Cc:** (b) (6) LCDR USN NAVCIVLAWSUPPACT DC (USA)  
**Subject:** FW: greetings - privacy act (PA) inquiry  
**Date:** Tuesday, November 23, 2021 5:10:00 PM  
**Attachments:** DoDM 6025.18.pdf

---

Sir,

(b) (5)

V/r

LT (b) (6)

---

**From:** (b) (6) CAPT USN DCNO N3N5 (USA) (b) (6) .mil@us.navy.mil>  
**Sent:** Tuesday, November 23, 2021 5:03 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Cc:** OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL <OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL@navy.mil>;  
(b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>;  
(b) (6) CAPT USN DCNO N1 (USA) (b) (6) .mil@us.navy.mil>; (b) (6)  
(b) (6) CAPT USN DCNO N1 (USA) (b) (6) .mil@us.navy.mil>; (b) (6)  
CAPT USN DCNO N3N5 (USA) (b) (6) .mil@us.navy.mil>; (b) (6) CDR USN  
CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>; (b) (6) CDR  
USN DCNO N1 (USA) (b) (6) .mil@us.navy.mil>; (b) (6) CDR USN  
NAVCIVLAWSUPPACT DC (USA) (b) (6) @navy.mil>; (b) (6) LT USN NAVY JAG WASH DC  
(USA) <(b) (6) .mil@us.navy.mil>  
**Subject:** RE: greetings - privacy act (PA) inquiry

CDR Sharpe,

I copied people on the cc line who have cognizance over the records that are being collected. I will defer to them.

I also want to be clear about the request. Your email indicates that you are asking on behalf/representing a group of Sailors (“There are some” “available to us”).

With your Operations Officer title, it is not clear to me what leadership role you play in the organization as opposed to a Chief of Staff, Executive Officer, or Commanding Officer.

If you are making this request on behalf of yourself, request you clarify that.

Respectfully,  
CAPT (b) (6)

CAPT (b) (6), USN  
OPNAV N3N5 COVID-19 LEAD  
Pentagon (b) (6)  
SVOIP 302-221-2425  
Comm (703) 614-9250  
DSN (312) 224-9250  
Cell (b) (6)  
SIPR: (b) (6) @navy.smil.mil  
JWICS: (b) (6) @nmic.ic.gov

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Tuesday, November 23, 2021 4:30 PM  
**To:** OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL <OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL@navy.mil>  
**Subject:** greetings - privacy act (PA) inquiry

Team:

I just got off the phone w/ one of your O5's who suggested I put this question in email.

Do you have POCs and/or policy in place as to fielding a request from a member directly WRT that member requesting under the Privacy Act his/her record as it exists in the vaccination status tracker? There are some who want to ensure that their status has been reported properly, and it would seem to me that the PA would give them the right to have their personal status reported back to them based on a simple Privacy Act request. (see 5 USC 552a(d)(1)) Not sure if you have a POC who could be contacted on the N1 side (if they're the keepers of these records?) that you could make available to us, or if you have any add'l policy guidance as to how that would be handled.

Thanks in advance.

**CDR John F. Sharpe, USN, APR+M**  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** [REDACTED] [CDR USN NAVCIVLAWSUPPACT DC \(USA\)](#)  
**Cc:** [REDACTED] [LCDR USN NAVCIVLAWSUPPACT DC \(USA\)](#)  
**Subject:** FW: looking for FDA-licensed COVID vaccine  
**Date:** Tuesday, November 16, 2021 11:29:00 AM

---

Good morning Sir,

(b) (5)

Thank you!

V/r

LT (b) (6)

-----Original Message-----

From: Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2 mil@mail mil>  
Sent: Tuesday, November 16, 2021 11:25 AM  
To: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) mil@us navy.mil>  
Cc: (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us navy mil>; (b) (6) CIV USN (USA)  
(b) (6) .civ@us navy.mil>; (b) (6) LT USN NAVY JAG WASH DC  
(USA) (b) (6) mil@us navy.mil>; (b) (6) @navy mil; (b) (6) ,  
(b) (6) CIV DMA MS (USA) (b) (6) .civ@mail mil>  
Subject: looking for FDA-licensed COVID vaccine

CAPT:

As you know, on and off throughout our correspondence dating from 28 October, I have expressed my interest in finding a fully FDA-licensed COVID-19 vaccine so as to determine whether it is even practically possible for me to comply with the order - most recently reiterated, in pertinent part, yesterday by way of CHINFO's 10 November 2021 Memorandum - to receive vaccination with such a product.

As I detailed in my 9 Nov 21 email to CHINFO, to which I have had no reply, I have been searching the NCR for the licensed product, and I have indicated that, unless otherwise directed by you or CHINFO, I will continue to look for it, so as to avoid, scrupulously, the appearance or reality of refusing to comply with a lawful order.

At the same time, your (CHINFO's) most recent order directed me to get a first dose of the vaccine at the Pentagon yesterday, 15 November 2021, which, as you know, and as I detailed in my letter of 15 November 2021, I did not get, because the fully FDA-licensed product was not available there.

I am also aware that the reporting requirements of NAVADMIN 249/21 require you to report to the CCDA this week service-member vaccination status as such status existed on 15 November 2021.

Since 15 November 21 is now passed, and since between 28 October and yesterday, inclusive, I have been unable to locate a fully licensed COVID-19 vaccine product, should I continue to try to find a licensed vaccine or

should I simply concede defeat, and cease and desist in my efforts?

In either case, I would still appreciate - despite your not as of yet having done so - your and CHINFO's compliance with NAVADMIN 190/21 paragraph 3e(3), which requires (it is not optional) local commanders to provide their subordinates with "information and guidance regarding vaccine availability and administering locations." Despite your having delivered to me yesterday CHINFO's order that I accept vaccination with an EUA-authorized vaccine, neither you nor CHINFO have provided any information - despite repeated requests - as to the "availability and administering locations" of the fully FDA-licensed product.

Because I anticipate being placed in some jeopardy - albeit improperly and arguably invalidly - for my having what you and/or CHINFO will likely construe and cognize as an "unvaccinated" status as of 15 November 2021, I am (without intending to be melodramatic) begging you to advise me where the fully FDA-licensed vaccine is available. In the alternative, please tell me clearly that I am "off the hook" as to continuing to look for it.

Finally, I would ask you to bear continuously in mind the good of the Naval Service, and what kind of impression it would create were you to simply refuse to provide a substantive reply to my request, which is based upon an express directive that we all received from the Chief of Naval Operations and to which, in simple fairness, I believe I am entitled. I recognize that many of us are in difficult and uncomfortable positions based on how the DoD COVID vaccination program has been practically implemented, but I don't think that should get us off the hook from following lawful orders and directives - a concept which your comments to me yesterday make very clear you support.

Thank you in advance for your attention to this matter.

Very respectfully submitted,

CDR John F. Sharpe, USN, APR+M  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2 mil@mail mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

**From:** [REDACTED] [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**Subject:** FW: looking for FDA-licensed COVID vaccine  
**Date:** Tuesday, November 16, 2021 12:18:47 PM

---

(b) (6)

(b) (5)

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

-----Original Message-----

From: Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
Sent: Tuesday, November 16, 2021 11:25 AM  
To: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) mil@us.navy.mil>  
Cc: (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us.navy.mil>; (b) (6) CIV USN (USA)  
(b) (6) .civ@us.navy.mil>; (b) (6) LT USN NAVY JAG WASH DC  
(USA) (b) (6) mil@us.navy.mil>; (b) (6) @navy.mil; (b) (6)  
(b) (6) CIV DMA MS (USA) <(b) (6) civ@mail.mil>  
Subject: looking for FDA-licensed COVID vaccine

CAPT:

As you know, on and off throughout our correspondence dating from 28 October, I have expressed my interest in finding a fully FDA-licensed COVID-19 vaccine so as to determine whether it is even practically possible for me to comply with the order - most recently reiterated, in pertinent part, yesterday by way of CHINFO's 10 November 2021 Memorandum - to receive vaccination with such a product.

As I detailed in my 9 Nov 21 email to CHINFO, to which I have had no reply, I have been searching the NCR for the licensed product, and I have indicated that, unless otherwise directed by you or CHINFO, I will continue to look for it, so as to avoid, scrupulously, the appearance or reality of refusing to comply with a lawful order.

At the same time, your (CHINFO's) most recent order directed me to get a first dose of the vaccine at the Pentagon yesterday, 15 November 2021, which, as you know, and as I detailed in my letter of 15 November 2021, I did not get, because the fully FDA-licensed product was not available there.

I am also aware that the reporting requirements of NAVADMIN 249/21 require you to report to the CCDA this week service-member vaccination status as such status existed on 15 November 2021.

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** FW: req for legal opinion  
**Date:** Thursday, October 21, 2021 12:38:00 PM

---

Ma'am,

(b) (5), (b) (6)

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, October 20, 2021 2:16 PM  
**To:** (b) (6) @navy.mil  
**Subject:** req for legal opinion

(b) (6)

I got your name and number from CDR (b) (6) who I found via the JAG-link directory. I was looking for the person w/in Code 134 who effectively acts as SJA for CHINFO. He tells me you are it.

I work full time at Defense Media Activity, Ft. Meade, Md., but am a direct report to CHINFO as my parent/permanent duty station, which is why I'm coming to you.

I was provided some information recently about the COVID vaccine that appears to me to be questionable from a legal point of view. I brought it to our General Counsel at DMA. She gave me her rough opinion, which appears to support or at least acknowledge the concern I have, but as a non-military attorney who is not associated with my parent command she recommended I contact the military JAG who provides services and legal opinions to CHINFO.

I'm happy to give you a call to discuss and to provide more detailed info and documents, etc. I figured I'd make contact first, though, and make sure you were the right person to engage. I understand that CDR (b) (6) is handling a lot of the vaccine-related issues, so you may end up sending me to him. But I wanted to start in the right place.

Please feel free to reach out via cell; CDR (b) (6) gave me your number as well. We can alternatively hop on a teams call if that would be easier.

Thanks in advance.

**CDR John F. Sharpe, USN, APR+M**  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity



6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Cc:** (b) (6) [LT USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** FW: req for policy information/clarification  
**Date:** Friday, October 22, 2021 9:11:00 AM  
**Importance:** High

---

Good morning ma'am,

(b) (5)

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Thank you!

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Thursday, October 21, 2021 3:46 PM  
**To:** (b) (6) @navy.mil; (b) (6) LT USN NAVY JAG WASH DC (USA)  
<(b) (6).mil@us.navy.mil>  
**Cc:** john.sharpe@charter.net  
**Subject:** req for policy information/clarification  
**Importance:** High

(b) (6)

Thanks for the conversation just now. As requested, below are the two legal policy or command-level questions I'd like your assistance resolving if you can get any clarification within the scope of your role as SJA for the command rather than in any capacity of advocate for a specific member. As you know, I got a quick read on this from the GC here to work through my local chain of command, but she understandably sent me to you as SJA for the parent command.

1. The Administrative Remarks (NAVPERS 1070/613 ["Page 13"]) I am being asked to sign rightly asserts that SECDEF has directed full vaccination of service members and that mandatory vaccination "can only use COVID-19 vaccines that receive full licensure from the FDA." It goes on to state however that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization [EUA] to administer mandatory vaccinations." This would appear to be a misstatement of the law or of regulations having the force of law.

Contact:

Comm: (202) 685-5595

DSN: 325-5595

Fax: (202) 685-5542

DSONorthDefense@us.navy.mil

Duty Officer: (202) 420-1267

Walk-in Hours:

Monday - Friday

0900 - 1200

[https://www.jag.navy.mil/legal\\_services/documents/DSO\\_REMOTE\\_PERSREP\\_POLICY\\_ALL\\_OFFICES.pdf](https://www.jag.navy.mil/legal_services/documents/DSO_REMOTE_PERSREP_POLICY_ALL_OFFICES.pdf)

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>

**Sent:** Thursday, October 21, 2021 3:46 PM

**To:** (b) (6) @navy.mil; (b) (6) LT USN NAVY JAG WASH DC (USA)  
(b) (6) .mil@us.navy.mil>

**Cc:** john.sharpe@charter.net

**Subject:** req for policy information/clarification

**Importance:** High

(b) (6),

Thanks for the conversation just now. As requested, below are the two legal policy or command-level questions I'd like your assistance resolving if you can get any clarification within the scope of your role as SJA for the command rather than in any capacity of advocate for a specific member. As you know, I got a quick read on this from the GC here to work through my local chain of command, but she understandably sent me to you as SJA for the parent command.

1. The Administrative Remarks (NAVPERS 1070/613 ["Page 13"]) I am being asked to sign rightly asserts that SECDEF has directed full vaccination of service members and that mandatory vaccination "can only use COVID-19 vaccines that receive full licensure from the FDA." It goes on to state however that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization [EUA] to administer mandatory vaccinations." This would appear to be a misstatement of the law or of regulations having the force of law.
  - a. SECDEF has without qualification directed solely the use of fully licensed vaccines - necessarily excluding the use of a vaccine available under an EUA. SECDEF's 24 Aug 21 memo makes no provision for the use of an EUA vaccine that the FDA asserts has

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** [REDACTED] [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** FW: unsigned email  
**Date:** Thursday, October 21, 2021 12:39:00 PM  
**Attachments:** [DSO\\_REMOTE\\_PERSREP\\_POLICY\\_ALL\\_OFFICES.pdf](#)

---

Ma'am,

(b) (5)

V/r

LT (b) (6)

-----Original Message-----

**From:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Sent:** Thursday, October 21, 2021 12:33 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** RE: unsigned email

Sir,

Received. Thank you for your phone call.

Please send your inquiry irt the Page 13. Once I have a better idea of your exact questions, I will have a better idea of what resources we can connect you with at this time.

As promised, the DSO North HQ contact information is below. They can speak to you confidentially and provide you with personal legal advice. Remote services are highly encouraged; see attached policy and procedure to get an appointment.

DSO NORTH HQ  
Mailing Address:  
1250 10th St., SE  
Bldg #200, Suite 1200  
Washington, DC 20374  
Contact:  
Comm: (202) 685-5595  
DSN: 325-5595  
Fax: (202) 685-5542  
DSONorthDefense@us.navy.mil  
Duty Officer: (202) 420-1267  
Walk-in Hours:  
Monday - Friday  
0900 - 1200

[https://www.jag.navy.mil/legal\\_services/documents/DSO\\_REMOTE\\_PERSREP\\_POLICY\\_ALL\\_OFFICES.pdf](https://www.jag.navy.mil/legal_services/documents/DSO_REMOTE_PERSREP_POLICY_ALL_OFFICES.pdf)

Thank you!

V/r

**From:** [Brown, Charles W RDML USN CHINFO WASHINGTON DC \(USA\)](#)  
**To:** [\[REDACTED\] LT USN NAVY JAG WASH DC \(USA\); \(b\) \(6\) \[REDACTED\] CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Cc:** [\(b\) \(6\) \[REDACTED\] CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** Fwd: REQUEST FOR REDRESS  
**Date:** Wednesday, November 24, 2021 5:59:01 PM  
**Attachments:** [ltr to CHINFO of 24 Nov 21 w encl \(1\).pdf](#)

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FYSA

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**From:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Sent:** Wednesday, November 24, 2021 2:57 PM  
**To:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
**Cc:** [\(b\) \(6\) \[REDACTED\] CDR USN CHINFO WASHINGTON DC \(USA\); \(b\) \(6\) \[REDACTED\] CAPT USN CHINFO WASHINGTON DC \(USA\); \[john.sharpe@charter.net\]\(mailto:john.sharpe@charter.net\)](#)  
**Subject:** RE: REQUEST FOR REDRESS

Admiral,

Thank you for your acknowledgment. Attached for your review at your convenience is a follow-up submission correcting several typographical errors and omissions. I regret and apologize for the inconvenience of an additional email.

I hope you have a nice holiday break.

v/r

CDR Sharpe

---

**From:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
[\(b\) \(6\) \[REDACTED\].mil@us.navy.mil](#)>  
**Sent:** Wednesday, November 24, 2021 2:08 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Cc:** [\(b\) \(6\) \[REDACTED\] CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
<[\(b\) \(6\) \[REDACTED\].mil@us.navy.mil](#)>; [\(b\) \(6\) \[REDACTED\] CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
[\(b\) \(6\) \[REDACTED\].mil@us.navy.mil](#)>; [john.sharpe@charter.net](mailto:john.sharpe@charter.net)  
**Subject:** Re: REQUEST FOR REDRESS

CDR Sharpe,

I received your request for redress. My response will be forthcoming.

V/r,  
cb

---

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Sent:** Tuesday, November 23, 2021 7:41 PM  
**To:** Brown, Charles W RDML USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CAPT USN  
CHINFO WASHINGTON DC (USA); (b) (6) [@charter.net](mailto:charter.net)  
**Subject:** REQUEST FOR REDRESS

Admiral,

The attached is respectfully submitted for your consideration and action. In sum it requests modification or reversal of your recent orders WRT vaccination, modification of my reported status as "unvaccinated, refuser," restoration of my temporary assignment to DMA, and other ancillary relief.

Thank you in advance for your attentive consideration.

PS I am copying my personal email which I would ask you to keep on the cc line. In view of my transfer away from DMA the mail.mil email will be in a transitional status and may not be functioning for much longer. My NMCI account is being recreated now but may not be up and running for anywhere from several days to a couple of weeks.

v/r

**CDR John F. Sharpe, USN, APR+M**  
[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)  
(703) 653-4075 (c)

**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) CIV USN (USA); (b) (6) LCDR USN (USA)  
**Subject:** Fwd: greetings - privacy act (PA) inquiry  
**Date:** Wednesday, November 24, 2021 2:15:54 PM

---

(b) (5)

Very Respectfully,

(b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, November 24, 2021 1:40 PM  
**To:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**Cc:** john.sharpe@charter.net  
**Subject:** Re: greetings - privacy act (PA) inquiry

(b) (6), thanks, I am quite familiar with the PA process. Question for you is whether you (CHINFO) will release to me directly the report made on me pursuant to the NAVADMIN 249/21, which directed the collection of data on unvaccinated service members, or will send me to the FOIA system.

N13 deputy already confirmed that they would simply re-direct a request to them back to CHINFO as the owner of the data.

So let me just get right to the point and make the Privacy Act Request now for you to please provide me with a copy of what you submitted relative to me personally (by name, DoD ID, SSN, or other identifying number) to the DON COVID Tracking Site. I would think that it could just be an excel that had just one row in it, but I'll leave that up to you.

Thanks v/r. JFS

---

**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)"  
(b) (6) .mil@us.navy.mil>  
**Date:** Wednesday, November 24, 2021 at 1:04:10 PM  
**To:** "Sharpe, John F CDR USN DMA MS (USA)"  
<john.f.sharpe2.mil@mail.mil>  
**Cc:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)"  
(b) (6) .mil@us.navy.mil>, (b) (6) LT USN NAVY JAG  
WASH DC (USA)" (b) (6) .mil@us.navy.mil>  
**Subject:** RE: greetings - privacy act (PA) inquiry

CDR Sharpe,





(b) (5)

**From:** [Sharpe John F CDR USN DMA MS \(USA\)](#)  
**To:** [LT USN NAVY JAG WASH DC \(USA\)](#)  
**Cc:** [\(b\) \(6\) @navy.mil](#)  
**Subject:** RE:  
**Date:** Thursday, October 21, 2021 8:24:45 PM

---

(b) (6),

Got it, thank you. Working on my note to you; meanwhile please provide DSO North POC/contact info.

Yours with thanks

**CDR John F. Sharpe, USN, APR+M**

Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)  
(301) 222-6283 (w)  
(703) 653-4075 (c)

---

**From:** [\(b\) \(6\)](#) LT USN NAVY JAG WASH DC (USA) [\(b\) \(6\) .mil@us.navy.mil](#)>  
**Sent:** Thursday, October 21, 2021 12:05 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Subject:**

Very Respectfully,

LT [\(b\) \(6\)](#), JAGC, USN  
Office of the Judge Advocate General  
Administrative Law (Code 13)  
Command Authorities (Branch 134)  
Pentagon, Room [\(b\) \(6\)](#)  
Washington, DC 20350-1000  
O: 703-692-2421 (DSN 222)  
C: [\(b\) \(6\)](#)  
E-mail [\(b\) \(6\) @navy.mil](#)  
Flank Speed: [\(b\) \(6\) .mil@us.navy.mil](#)  
[OJAG Code 13 Command Authorities Practitioner Portal \(open to Navy JAG Community\)](#)  
<https://portal.secnav.navy.mil/orgs/JAG/13II/SitePages/Branch%20134%20Command%20Authorities%20Investigations%20Military%20Rights%20and%20Benefits.aspx>  
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CUI Category: PRVCY, LEGAL  
Distribution/Dissemination Control: FEDCON, ATTORNEY-WP  
POC: LT [\(b\) \(6\)](#) 703-614-2421, [\(b\) \(6\) .mil@us.navy.mil](#)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Tuesday, November 9, 2021 12:39 PM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Subject:** Re: COVID-19 VACCINATION REPORTING REQUIREMENT

CAPT:

I just provided a lengthy status report (serving as a full reply to your message below) to YNC for transmission to the Admiral and yourself. I copied the EA on the assumption that she or YNC could print or forward, given the length, in a format most convient for you and the boss.

A few quick replies to your email below are inserted between your points (which I put in bold).

**we have been directed to report the COVID status of all hands as it stands on 15 Nov.**

NAVADMIN 249/21 says no earlier than 15 Nov and no later than 19 Nov.

**I need you to request a medical or religious exemption immediately**

I address this point in my longer email, transmitted a few minutes ago.

**go to a MTF, get vaccinated, and provide us the documentation**

I need you pursuant to NAVADMIN 190/21 to tell me where the fully FDA-licensed vaccine is being administered pursuant to FDA labeling and guidance.

**If you do not intend to request a waiver or get vaccinated by 14 Nov., so that we can meet the 15 Nov. reporting requirement, please clearly state your refusal to receive the COVID vaccine.**

I will not state my refusal to receive the COVID vaccine because I have not refused to get a fully FDA-licensed vaccine. I would ask you to clearly state whether you are ordering me to receive an unlicensed COVID vaccine. I would be happy to provide a clear response to that statement. In its absence, all we can say is that I have been ordered to receive vaccination with a product that does not exist, and I am waiting to be told when the product comes into existence and is available. In such a case the concept of "refusal" is wholly and utterly inapplicable.



Very respectfully,

**CDR John F. Sharpe, USN, APR+M**

Operations Officer

Mission Support Line of Business

Defense Media Activity

6700 Taylor Avenue

Fort Meade, MD 20755

john.f.sharpe2.mil@mail.mil

(301) 222-6283 (w)

(703) 653-4075 (c)

(b) (5)

**From:** (b) (6) CIV DMA MS (USA)  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA); (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) @navy.mil; (b) (6) CAPT USN DMA MPHQ (USA); (b) (6) (b) (6) CIV DMA HQ DMA (USA); (b) (6) COL USARMY DMA HQ DMA (USA)  
**Subject:** RE: Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021  
**Date:** Wednesday, November 17, 2021 6:13:14 PM

---

CAPT,

I appreciate the circumstances surrounding the recall of CDR John Sharpe, but It's unfortunate that you have found it necessary to recall him from the DMA team at this time. The immediacy of this action creates a noticeable impact to a number of important DMA action items within Mission Support. On 25 May 2021, the Navy Chief of Information (CHINFO) assigned CDR Sharpe to Defense Media Activity for the duration of his active-duty retention period.

The Director, DMA, assigned CDR Sharpe to me; I appointed him my Operations Officer, to serve in that capacity for the duration of his temporary assignment to DMA. As such, he operates as principal assistant for line of business operations, reviews all operational actions tasked to the Line of Business, performs analyses of ongoing initiatives, and oversees external correspondence.

As chief advisor for operational issues, CDR Sharpe, along with my Deputy, Plans Chief, and SEL provide trusted counsel on a host of strategic, operational and personnel matters routinely. I have come to rely heavily on his ability to weigh in on complex operational issues, representing DMA at the field grade/mid-grade to appropriately negotiate on our behalf to the betterment of DMA and the department through fully vetted requirements, and matching solutions, yet to be determined. His focus on crucial details, and ability to energize subordinate Division Leaders to improve internal and external communications, have streamlined operations.

Since CDR Sharpe's arrival, he has demonstrated an enviable ability to quickly grasp complex issues and seek methods to move the agency forward, collaboratively. He has directly engaged DMA's mission partners at DISA as liaison for 4th Estate Network Optimization efforts, has worked with DOD CIO's team in discussions of cloud opportunities, and monitors DMA's IT RMF progress.

To underscore the level of engagement we have benefitted from, the following outlines a simple snapshot of items which CDR Sharpe is on tap for:

ISSM actions - IAVMs, CVEs, ATOs, providing top cover to DMA CIO, and ensuring actions are completed.

Works directly with the offices of DOD CIO, DMA CIO, DMA CSD, DISA, and MP LoB, particularly with PBR tech refresh. Engages with our Acquisition & Procurement office to glean insight and apply to ongoing service acquisition efforts.

CDR Sharpe is currently spearheading DMA Mission Support's internal documentation effort geared toward complete visibility of DMA's enterprise network, inclusive of OCONUS broadcast centers and stations. This effort had lapsed, but under CDR Sharpe, has been reborn in its efforts to achieve completion. This is crucial to developing the appropriate positions for DMA as it negotiates for DOD Net. He has likewise worked with the DoDNet/4ENO migration team on achieving a comprehensive MoA w/ DISA.

If/when this current issue is resolved, with your consent, I would welcome the return of CDR Sharpe to the Mission Support Line of Business, where his energy and his engagement have come to be relied upon.

v/r

(b) (6)  
Director Mission Support, CTO  
Defense Media Activity  
Fort Meade, MD 20755  
Comm: 301.222.6543

-----Original Message-----

From: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) mil@us navy.mil>  
Sent: Wednesday, November 17, 2021 12:05 PM  
To: Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
Cc: (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) .mil@us navy mil> (b) (6) CIV USN (USA)  
(b) (6) .civ@us navy.mil>; (b) (6) LT USN NAVY JAG WASH DC  
(USA) (b) (6) mil@us navy.mil>; (b) (6) @navy mil; (b) (6)  
(b) (6) CIV DMA MS (USA) (b) (6) .civ@mail mil>; (b) (6),  
(b) (6) CAPT USN DMA MPHQ (USA) (b) (6) mil@mail mil>  
Subject: Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021

CDR Sharpe --

In accordance with NAVADMIN 256/21 para 4.b., your TAD orders to the Defense Media Activity are cancelled effective 1600 EST, 23 Nov 2021. You are to report for duty at CHINFO HQ virtually (via email or telephone) NLT 0800 EST, 24 Nov 2021, to CDR (b) (6), Deputy Asst. Chief of Information CHINFO (OI-8). He may be contacted at:

CDR (b) (6), USN  
Requirements, Policy and Professional Development (OI-8)  
Navy Office of Information (CHINFO)  
1200 Navy Pentagon, Rm 4B514  
Washington, DC 20350-1200  
Cell (b) (6)  
Email: (b) (6) .mil@us navy mil

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy mil  
703-695-0911 (office)  
(b) (6) (mobile)

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** (b) (6) CIV DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA); (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) navy.mil; (b) (6) CAPT USN DMA MPHQ (USA); (b) (6) (b) (6) CIV DMA HQ DMA (USA); (b) (6) COL USARMY DMA HQ DMA (USA)  
**Subject:** RE: Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021  
**Date:** Wednesday, November 17, 2021 7:51:57 PM

---

Mr. (b) (6) --

Thank you for your input. CDR Sharpe was recalled in response to a Navy wide directive affecting all USN active duty personnel across the force with regard to a medical readiness matter. All Navy commands were directed to cancel TAD assignments and recall all personnel to home station if they met certain criteria within five working days, and unfortunately, that includes CDR Sharpe. I'm gratified to learn he was providing valuable assistance to DMA.

V/r,

(b) (6)

Capt (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

-----Original Message-----

**From:** (b) (6) CIV DMA MS (USA)  
<(b) (6).civ@mail.mil>  
**Sent:** Wednesday, November 17, 2021 6:12 PM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>; (b) (6) CIV USN (USA)  
(b) (6).civ@us.navy.mil>; (b) (6) LT USN NAVY JAG WASH DC (USA)  
(b) (6).mil@us.navy.mil>; (b) (6) @navy.mil; (b) (6) CAPT USN DMA MPHQ (USA)  
(b) (6).mil@mail.mil>; (b) (6) CIV DMA HQ DMA (USA)  
(b) (6).civ@mail.mil>; (b) (6) COL USARMY DMA HQ DMA (USA)  
(b) (6).mil@mail.mil>  
**Subject:** RE: Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021

CAPT,

I appreciate the circumstances surrounding the recall of CDR John Sharpe, but it's unfortunate that you have found it necessary to recall him from the DMA team at this time. The immediacy of this action creates a noticeable impact to a number of important DMA action items within Mission Support. On 25 May 2021, the Navy Chief of Information (CHINFO) assigned CDR Sharpe to Defense Media Activity for the duration of his active-duty retention period.

The Director, DMA, assigned CDR Sharpe to me; I appointed him my Operations Officer, to serve in that capacity for the duration of his temporary assignment to DMA. As such, he operates as principal assistant for line of business operations, reviews all operational actions tasked to the Line of Business, performs analyses of ongoing initiatives, and oversees external

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** (b) (6) [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
**Cc:** (b) (6) [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
**Subject:** RE: Direction from the CHINFO  
**Date:** Wednesday, November 10, 2021 3:50:00 PM

---

Sir,

(b) (5)

V/r

LT (b) (6)

---

**From:** (b) (6) [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
(b) (6) [.mil@us.navy.mil](#)>  
**Sent:** Wednesday, November 10, 2021 8:39 AM  
**To:** (b) (6) [LT USN NAVY JAG WASH DC \(USA\)](#) <(b) (6) [.mil@us.navy.mil](#)>  
**Cc:** (b) (6) [CDR USN CHINFO WASHINGTON DC \(USA\)](#)  
(b) (6) [.mil@us.navy.mil](#)>  
**Subject:** FW: Direction from the CHINFO

LT (b) (6)

(b) (5)

V/r,

(b) (6)

(b) (5)

V/r,

(b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Sent:** Wednesday, November 10, 2021 7:58 AM  
**To:** (b) (6) [CAPT USN CHINFO WASHINGTON DC \(USA\)](#)  
(b) (6) [.mil@us.navy.mil](#)>  
**Cc:** (b) (6) [CAPT USN OSD PA \(USA\)](#) (b) (6) [.mil@mail.mil](#)>; (b) (6) [CDR USN CHINFO WASHINGTON DC \(USA\)](#) (b) (6) [.mil@us.navy.mil](#)>; (b) (6) [A CIV DMA MS \(USA\)](#) (b) (6) [.civ@mail.mil](#)>  
**Subject:** RE: Direction from the CHINFO

(b) (5)

(b) (5)



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(b) (5)

(b) (5)

(b) (5)



**From:** [John Sharpe](#)  
**To:** [REDACTED] <[REDACTED]@us.navy.mil>  
**Cc:** [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**Subject:** RE: [Non-DoD Source] RE: req for policy information/clarification  
**Date:** Friday, October 22, 2021 5:33:42 PM

---

Thanks [REDACTED]. That's a bit more helpful.

More to follow if needed.

r/JFS

---

**From:** [REDACTED] <[REDACTED]@us.navy.mil>  
**Sent:** Friday, October 22, 2021 5:09 PM  
**To:** john.sharpe@charter.net; [REDACTED] <[REDACTED]@navy.mil>  
**Cc:** Sharpe, John F CDR USN DMA MS (USA)  
**Subject:** RE: [Non-DoD Source] RE: req for policy information/clarification

Good afternoon Sir,

Please see attached memoranda for more specific discussion related to your inquiry.

V/r

LT [REDACTED]

---

**From:** John Sharpe <john.sharpe@charter.net>  
**Sent:** Friday, October 22, 2021 4:06 PM  
**To:** [REDACTED] <[REDACTED]@us.navy.mil>; [REDACTED] <[REDACTED]@navy.mil>  
**Cc:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Subject:** [Non-DoD Source] RE: req for policy information/clarification

Thanks [REDACTED]. I can't say your reply is surprising or particularly helpful. But thanks for responding.

BT

[REDACTED]. I have reviewed the websites your LT provided and find them interesting but not relevant to the question I put to her. Are you – with your “COVID Vaccine” hat on – able to provide any policy or legal authority (issuance/regulation/etc.) that substantiates RDML Brown's assertion on the Page 13 he gave me that “Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations”?

As you may recognize, the operative word is “authorized.” Authorized by whom? Where is that memorialized? The fact that the statement contradicts SECDEF's explicit 24 August 2021 order makes the need for such legal authority pressing.

(b) (5)

(b) (5)

V/R,

(b) (6)

CDR, JAGC, USN

---

**From:** John Sharpe <john.sharpe@charter.net>

**Sent:** Friday, October 22, 2021 4:06 PM

**To:** (b) (6) LT USN NAVY JAG WASH DC (USA)' (b) (6) .mil@us.navy.mil> (b) (6)

CDR USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @navy.mil>

**Cc:** Sharpe, John <john.f.sharpe2.mil@mail.mil>

**Subject:** [Non-DoD Source] RE: req for policy information/clarification

Thanks (b) (6) I can't say your reply is surprising or particularly helpful. But thanks for responding.

BT

(b) (6) I have reviewed the websites your LT provided and find them interesting but not relevant to the question I put to her. Are you – with your “COVID Vaccine” hat on – able to provide any policy or legal authority (issuance/regulation/etc.) that substantiates RDML Brown's assertion on the Page 13 he gave me that “Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations”?

As you may recognize, the operative word is “authorized.” Authorized by whom? Where is that memorialized? The fact that the statement contradicts SECDEF's explicit 24 August 2021 order makes the need for such legal authority pressing.

For what it is worth, I am not a “vaccine refuser” – to get that out of the way – and I have not applied for any kind of medical or administrative exemption. I am a Rickover-trained “Nuke” who reads and follows written authorities. Where is the written authority that would permit me to safely and legally acquiesce in what would otherwise appear to be a direct violation of SECDEF's unambiguous directive?

Please advise.

r/

CDR JF Sharpe, USN

**John Sharpe**

[john.sharpe@charter.net](mailto:john.sharpe@charter.net)

(757) 645-1740 (h)

(757) 332-2074 (c)

(b) (5)

(b) (5)

(b) (5)

V/R,

(b) (6)

CDR, JAGC, USN  
Office of the Judge Advocate General  
Administrative Law Division (Code 13)  
Branch 134 – Command Authorities  
1000 Navy Pentagon, Room 4D641  
Washington, DC 20350-1000

Office: 703-614-5757

E-mail: (b) (6)@navy.mil

MS Teams: NOT WORKING, LINKED TO ONENET ACCOUNT

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the Navy

Controlled by: OJAG, Code  
13 (Civil Law)

CUI  
Category: PRVCY, LEGAL

Distribution/Dissemination  
Control: FEDCON,  
ATTORNEY-WP

POC:  
CDR (b) (6),

(b) (6)@navy.mil,  
(b) (6)

---

**From:** (b) (6) CAPT USN DCNO N3N5 (USA) (b) (6).mil@us.navy.mil>

**Sent:** Tuesday, November 23, 2021 5:03 PM

**To:** Sharpe, John <john.f.sharpe2.mil@mail.mil>

**Cc:** OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL <OPNAV\_COVID\_CRISIS\_RESPONSE\_CELL@navy.mil>;

(b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>;

(b) (6) CAPT USN DCNO N1 (USA) (b) (6).mil@us.navy.mil>; (b) (6)

(b) (6) CAPT USN DCNO N1 (USA) (b) (6).mil@us.navy.mil>; (b) (6)

CAPT USN DCNO N3N5 (USA) (b) (6).mil@us.navy.mil>; (b) (6) CDR USN

CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>; (b) (6) CDR

USN DCNO N1 (USA) (b) (6).mil@us.navy.mil>; (b) (6) CDR USN

**From:** [REDACTED] CDR USN CHINFO WASHINGTON DC (USA)  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** john.sharpe@charter.net; (b) (6) CAPT USN CHINFO WASHINGTON DC (USA); (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Subject:** RE: greetings - privacy act (PA) inquiry  
**Date:** Tuesday, November 30, 2021 10:48:35 AM

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CDR Sharpe,

The spreadsheet is not releasable under the Privacy Act. This record is not considered a Privacy Act record. The Privacy Act only applies to records about an individual and contained in a "system of records" or location where they can be retrieved by name or identifier (e.g., DoD ID # or case file). And the record must actually be retrieved by the individual's name or identifier.

We do not have a routine practice or existing requirement to release this information to individuals otherwise.

I can tell you that you were reported as "unvaccinated, refuser" to PERS on 16 November per the NAVADMIN reporting requirements.

Please let me know if you have any additional questions or concerns.

Very Respectfully,

CDR (b) (6), APR+M  
Executive Assistant to the Chief of Information (CHINFO)  
1200 Navy Pentagon 4B463  
Washington, DC 20350  
(b) (6).mil@us.navy.mil  
703.697.7392 (o)  
(b) (6) (c)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, November 24, 2021 1:40 PM  
**To:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Cc:** john.sharpe@charter.net  
**Subject:** Re: greetings - privacy act (PA) inquiry

(b) (6) thanks, I am quite familiar with the PA process. Question for you is whether you (CHINFO) will release to me directly the report made on me pursuant to the NAVADMIN 249/21, which directed the collection of data on unvaccinated service members, or will send me to the FOIA system.

N13 deputy already confirmed that they would simply re-direct a request to them back to

(b) (5)



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(b) (5)

(b) (6) @navy.mil>  
Cc: (b) (6) LCDR USN NAVCIVLAWSUPPACT DC (USA)  
(b) (6) .mil@us navy mil>  
Subject: FW: looking for FDA-licensed COVID vaccine

Good morning Sir,

(b) (5)

Thank you!

V/r

LT (b) (6)

-----Original Message-----

From: Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2 mil@mail mil>  
Sent: Tuesday, November 16, 2021 11:25 AM  
To: (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
(b) (6) mil@us navy.mil>  
Cc: (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6) mil@us navy mil> (b) (6) CIV USN (USA)  
(b) (6) .civ@us navy.mil>; (b) (6) LT USN NAVY JAG WASH DC  
(USA) (b) (6) mil@us navy.mil> (b) (6) @navy mil; Hopwood,  
Christopher A CIV DMA MS (USA) <(b) (6) .civ@mail mil>  
Subject: looking for FDA-licensed COVID vaccine

CAPT:

As you know, on and off throughout our correspondence dating from 28 October, I have expressed my interest in finding a fully FDA-licensed COVID-19 vaccine so as to determine whether it is even practically possible for me to comply with the order - most recently reiterated, in pertinent part, yesterday by way of CHINFO's 10 November 2021 Memorandum - to receive vaccination with such a product.

As I detailed in my 9 Nov 21 email to CHINFO, to which I have had no reply, I have been searching the NCR for the licensed product, and I have indicated that, unless otherwise directed by you or CHINFO, I will continue to look for it, so as to avoid, scrupulously, the appearance or reality of refusing to comply with a lawful order.

At the same time, your (CHINFO's) most recent order directed me to get a first dose of the vaccine at the Pentagon yesterday, 15 November 2021, which, as you know, and as I detailed in my letter of 15 November 2021, I did not get, because the fully FDA-licensed product was not available there.

I am also aware that the reporting requirements of NAVADMIN 249/21 require you to report to the CCDA this week service-member vaccination status as such status existed on 15 November 2021.

Since 15 November 21 is now passed, and since between 28 October and yesterday, inclusive, I have been unable to locate a fully licensed COVID-19 vaccine product, should I continue to try to find a licensed vaccine or should I simply concede defeat, and cease and desist in my efforts?

In either case, I would still appreciate - despite your not as of yet having

(b) (5)

(b) (5)

(b) (5)



**From:** [REDACTED] CAPT USN CHINFO WASHINGTON DC (USA)  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** [REDACTED] CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA); (b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) @navy.mil; (b) (6) CIV DMA MS (USA)  
**Subject:** RE: looking for FDA-licensed COVID vaccine  
**Date:** Wednesday, November 17, 2021 10:33:46 AM

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CDR Sharpe --

As a Navy service member, you are required to be fully vaccinated against COVID-19 through administration of vaccines that have received Food and Drug Administration (FDA) licensure or through the voluntary administration of vaccines under FDA Emergency Use Authorization (EUA) or World Health Organization (WHO) Emergency Use Listing.

COVID-19 vaccination is mandatory for all Navy service members who are not medically or administratively exempt. It is your responsibility to be fully vaccinated or seek an exemption.

You have received multiple orders to be fully vaccinated. NAVADMIN 190/21 constitutes a lawful order. Most recently, you were ordered to receive an initial dose of the FDA-approved ComirnatyR or FDA-authorized Pfizer-BioNTech COVID-19 vaccine from DiLorenzo Health Clinic by November 15, 2021. This order, along with NAVADMIN 190/21, constitutes a lawful order.

Your failure to follow these orders, along with any others, on the basis of your belief that they are unlawful is at your own jeopardy.

Refusal to be fully vaccinated against COVID-19, absent an approved exemption, constitutes a failure to obey a lawful order and is punishable under the UCMJ and/or may result in administrative action in accordance with existing COVID-19 Consolidated Disposition Authority (CCDA) guidance.

On November 15, 2021, you had access to healthcare providers to address questions regarding COVID-19 vaccination. You then declined to receive the COVID-19 vaccine.

You are under no obligation to seek out the FDA-approved ComirnatyR or other FDA-approved vaccine outside the military medical system.

Please direct all further questions, concerns, or communications to CDR (b) (6) .mil@us.navy mil.

V/r,  
(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy mil  
703-695-0911 (office)  
(b) (6) (mobile)

(b) (5)

**From:** [REDACTED] [LT USN NAVY JAG WASH DC \(USA\)](#)  
**To:** (b) (6) [CDR USN DMA MS \(USA\)](#)  
**Cc:** (b) (6) [CDR USN NAVCIVLAWSUPPACT DC \(USA\)](#)  
**Subject:** RE: req for legal opinion  
**Date:** Thursday, October 21, 2021 10:24:00 AM

---

Good morning Sir,

Would you be available at 1400 this afternoon?

V/r

LT (b) (6)

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**From:** (b) (6) LT USN NAVY JAG WASH DC (USA)  
**Sent:** Wednesday, October 20, 2021 9:55 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>; (b) (6) @navy.mil  
**Cc:** (b) (6) USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @navy.mil>  
**Subject:** RE: req for legal opinion

Good evening Sir,

I am available to speak by phone tomorrow morning at 1130. Does that time work for you?

It may be helpful if you can send me the information that you provided to the DMA General Counsel in advance so that I can have time to review it before our meeting and get a sense of what we can do to assist you.

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, October 20, 2021 2:16 PM  
**To:** (b) (6) @navy.mil  
**Subject:** req for legal opinion

(b) (6)

I got your name and number from CDR (b) (6) who I found via the JAG-link directory. I was looking for the person w/in Code 134 who effectively acts as SJA for CHINFO. He tells me you are it.

I work full time at Defense Media Activity, Ft. Meade, Md., but am a direct report to CHINFO as my parent/permanent duty station, which is why I'm coming to you.

I was provided some information recently about the COVID vaccine that appears to me to be

(b) (5)

**From:** [REDACTED] CDR USN NAVCIVLAWSUPPACT DC (USA)  
**To:** [REDACTED] LT USN NAVY JAG WASH DC (USA)  
**Cc:** (b) (6) [REDACTED]@navy.mil  
**Subject:** RE: req for policy information/clarification  
**Date:** Friday, October 22, 2021 1:48:56 PM

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(b) (6) .

(b) (5), (d)(5)

V/R,

(b) (6)  
CDR, JAGC, USN

---

**From:** (b) (6) [REDACTED] LT USN NAVY JAG WASH DC (USA) (b) (6) [REDACTED].mil@us.navy.mil>  
**Sent:** Friday, October 22, 2021 12:56 PM  
**To:** Sharpe, John <john.f.sharpe2.mil@mail.mil>  
**Cc:** john.sharpe@charter.net; (b) (6)(b) (6) [REDACTED] CDR USN NAVCIVLAWSUPPACT DC (USA)  
(b) (6) [REDACTED]@navy.mil>  
**Subject:** RE: req for policy information/clarification

Good morning Sir,

Confirming receipt of your email. It looks like your CAC certificates may be causing some issues, so leaving your personal email on the cc line and requesting a delivery receipt.

Please reach out to admin or CDR [REDACTED] irt the temporary versus permanent entry concern.

To provide you with some additional information on Navy policy, you can find DON and DoD references and FAQs at the links below:

<https://www.navy.mil/US-Navy-COVID-19-Updates/>

<https://www.whs.mil/COVID-19/>

<https://health.mil/Military-Health-Topics/Combat-Support/Public-Health/Coronavirus>

To assist you with any other questions, the DSO North HQ contact information is below. They can speak to you confidentially and provide you with personal legal advice. Remote services are highly encouraged; see attached policy and procedure to get an appointment.

DSO NORTH HQ  
Mailing Address:  
1250 10th St., SE  
Bldg #200, Suite 1200

**From:** [REDACTED] CDR USN CHINFO WASHINGTON DC (USA)  
**To:** [REDACTED] LT USN NAVY JAG WASH DC (USA)  
**Cc:** (b) (6) LT USN CHINFO WASHINGTON DC (USA)  
**Subject:** RE: req for policy information/clarification  
**Date:** Friday, October 22, 2021 1:18:40 PM

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(b) (6),

(b) (5)

Thank you!

V/R,

(b) (6)

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**From:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6).mil@us.navy.mil>  
**Sent:** Friday, October 22, 2021 12:03 PM  
**To:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Cc:** (b) (6) LT USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>  
**Subject:** RE: req for policy information/clarification

Ma'am,

(b) (5), (d)(5)

V/r

LT (b) (6)

---

**From:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
(b) (6).mil@us.navy.mil>  
**Sent:** Friday, October 22, 2021 10:58 AM  
**To:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6).mil@us.navy.mil>  
**Cc:** (b) (6) LT USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>  
**Subject:** RE: req for policy information/clarification

(b) (6)

I have this for action, thank you.

V/r,

(b) (6)

---

**From:** (b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6).mil@us.navy.mil>

**Sent:** Friday, October 22, 2021 9:11 AM

**To:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)

(b) (6).mil@us.navy.mil>

**Cc:** (b) (6) LT USN CHINFO WASHINGTON DC (USA) (b) (6).mil@us.navy.mil>

**Subject:** FW: req for policy information/clarification

**Importance:** High

Good morning ma'am,

Below is from CDR Sharpe.

(b) (5)  
[Redacted]  
[Redacted]  
[Redacted]

Thank you!

V/r

LT (b) (6)

---

**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>

**Sent:** Thursday, October 21, 2021 3:46 PM

**To:** (b) (6) @navy.mil; (b) (6) LT USN NAVY JAG WASH DC (USA)

(b) (6).mil@us.navy.mil>

**Cc:** john.sharpe@charter.net

**Subject:** req for policy information/clarification

**Importance:** High

(b) (6)

Thanks for the conversation just now. As requested, below are the two legal policy or command-level questions I'd like your assistance resolving if you can get any clarification within the scope of your role as SJA for the command rather than in any capacity of advocate for a specific member. As you know, I got a quick read on this from the GC here to work through my local chain of command, but she understandably sent me to you as SJA for the parent command.

1. The Administrative Remarks (NAVPERS 1070/613 ["Page 13"]) I am being asked to sign rightly asserts that SECDEF has directed full vaccination of service members and that mandatory vaccination "can only use COVID-19 vaccines that receive full licensure from the FDA." It goes on to state however that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization [EUA] to administer mandatory vaccinations." This would appear to be a misstatement of the law or of regulations having the force of law.

(b) (5)



**From:** (b) (6) CPO USN (USA)  
**To:** LT USN NAVY JAG WASH DC (USA)  
**Subject:** RFI: Special FITREP for Retired/Retained Officer  
**Date:** Wednesday, November 17, 2021 7:41:14 AM

---

Good Morning,

As far as I am aware FITREPs are not required for retired personnel (even on active duty). However, if the question came up, I imagine that the command would defer to JAG for interpretation.

V/R

PSC(SW/AW) (b) (6)  
PERS-835 Officer Retirements  
Comm: (901) 874-3183  
DSN: 882-3183  
(b) (6) .mil@us.navy.mil  
\*\*\*\*\*

Questions about Officer Retirements? Visit our page for information and resources at:  
<https://www.public.navy.mil/bupers-npc/career/retirement/OfficerRetirements/Pages/default.aspx>

Controlled by: DON  
Controlled by: PERS-835  
CUI Category: PRVCY

Distribution/Dissemination Control: FEDCON

POC: PSC (b) (6) [us.navy.mil](mailto:us.navy.mil), 901-874-3183

CUI

Good afternoon,

I am seeking clarification on whether a retired/retained officer may receive a special FITREP.

Chapter 3 of BUPERSINST 1610.10 reads as if they would not, as does the attached fact sheet.

This question came up in the context of possible vaccine refusal and the CCDA NAVADMIN guidance on the Report of Misconduct and issuance of a special FITREP.

Thank you so much!

Very Respectfully,

LT (b) (6), JAGC, USN  
Office of the Judge Advocate General  
Administrative Law (Code 13)  
Command Authorities (Branch 134)  
Pentagon, Room 4D641  
Washington, DC 20350-1000  
O: 703-692-2421 (DSN 222)  
C: (b) (6)  
E-mail: (b) (6) @navy.mil  
Flank Speed: (b) (6) .mil@us.navy.mil

[OJAG Code 13 Command Authorities Practitioner Portal \(open to Navy JAG Community\)](https://portal.secnav.navy.mil/orgs/JAG/13II/SitePages/Branch%20134,%20Command%20Authorities,%20Investigations,%20Military%20Rights,%20and%20Benefits.aspx)

<https://portal.secnav.navy.mil/orgs/JAG/13II/SitePages/Branch%20134,%20Command%20Authorities,%20Investigations,%20Military%20Rights,%20and%20Benefits.aspx>  
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POC: LT (b) (6) 703-614-2421, (b) (6) .mil@us.navy.mil

**From:** [Sharpe, John F CDR USN DMA MS \(USA\)](#)  
**To:** [\[REDACTED\] LT USN NAVY JAG WASH DC \(USA\)](#)  
**Subject:** Re: unsigned email  
**Date:** Friday, October 22, 2021 7:38:16 AM

---

Thanks (b) (6)

DISA has been reporting continued problems with delivery of email outside mail.mil.

I sent my longer email outline my query to you, but I'm not sure if you received it yet.

If you could let men know, I'd be grateful.

I may send an addl. copy via my commercial email.

Thanks.

JFS

---

**From:** "(b) (6) [REDACTED] LT USN NAVY JAG WASH DC (USA)"  
"(b) (6) [REDACTED] mil@us.navy.mil">  
**Date:** Friday, October 22, 2021 at 7:08:37 AM  
**To:** "Sharpe, John F CDR USN DMA MS (USA)"  
<[john.f.sharpe2.mil@mail.mil](mailto:john.f.sharpe2.mil@mail.mil)>  
**Subject:** RE: unsigned email



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

1920  
Ser 835/107  
18 May 21

From: Commander, Navy Personnel Command  
To: CDR John F. Sharpe, USN, 1650  
Via: Chief of Information

Subj: REQUEST FOR RETENTION ON ACTIVE DUTY IN A RETIRED STATUS

Ref: (a) Your ltr of 1 Mar 21 w/end  
(b) Title 10, Section 688  
(c) Title 10, Section 690  
(d) Title 10, Section 688a

Encl: (1) Fact Sheet

1. Your request for retention on active duty in a retired status, reference (a), has been approved until 31 May 2022. The decision to approve your request was made after carefully reviewing current billet requirements and concluding that an immediate need exists for your expertise.
2. Your desire to continue active naval service is sincerely appreciated. Enclosure (1) is provided to answer questions you may have in reference to retention in a retired status. Should you have additional concerns or need further assistance, please contact the Officer Retirement Branch (PERS-835) via phone at (901) 874-3183 or via e-mail at (b) (6) @navy.mil.
3. Please note that reference (b) authorizes the Navy to temporarily order retired officers to active duty. While references (c) and (d) provides exemptions/exclusions for certain Health Care professionals, Chaplains, Attachés, etc., reference (c) places limits on non-exclusionary officers to "not more than 25." Pursuant to the President's Executive Order declaring a "National Emergency," the quota limit has been lifted. However, if the President's Executive Order is not continued, non-exclusionary officers, over the limit of 25, who are in a retired but retained status, may be curtailed to the first day of the fourth month following the month of the President's recension.

(b) (6)

Copy to:  
PERS-312  
PERS-448  
PERS-80



DEPARTMENT OF THE NAVY  
BUREAU OF MEDICINE AND SURGERY  
7700 ARLINGTON BOULEVARD  
FALLS CHURCH VA 22042

IN REPLY REFER TO

6300

Ser M00/21M00035

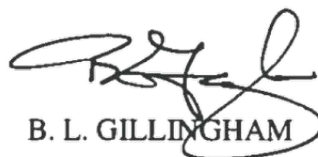
3 Sep 21

MEMORANDUM FOR COMMANDER, NAVAL MEDICAL FORCES ATLANTIC  
COMMANDER, NAVAL MEDICAL FORCES PACIFIC  
COMMANDER, NAVAL MEDICAL FORCES SUPPORT  
COMMAND

Subj: INTERCHANGABILITY OF FOOD AND DRUG ADMINISTRATION-APPROVED  
PFIZER-BIONTECH VACCINE COMIRNATY® AND FOOD AND DRUG  
ADMINISTRATION-AUTHORIZED PFIZER-BIONTECH VACCINE UNDER  
EMERGENCY USE AUTHORIZATION

Ref: (a) Comirnaty® Biologics License Application  
(b) Emergency Use Authorization for Pfizer-BioNTech COVID-19 vaccine of  
23 Aug 2021

1. Purpose. Address the interchangeability of the Food and Drug Administration (FDA)-approved Comirnaty® and FDA-authorized Pfizer-BioNTech Coronavirus Disease 2019 (COVID-19) vaccine.
2. Background. On 23 August 2021, the FDA approved the Biologics License Application submitted by Pfizer-BioNTech for individuals 16 years of age and older, reference (a). On the same day the FDA revised the Emergency Use Authorization (EUA) for the Pfizer-BioNTech COVID-19 vaccine for individuals 12-15 years of age and for a third dose in immunocompromised individuals, reference (b).
3. The FDA-approved vaccine, and the vaccine used under the EUA, have the same formulation, and can be used interchangeably to provide the COVID-19 vaccination series without presenting any safety or effectiveness concerns. Navy medical providers can use Pfizer-BioNTech doses previously distributed under the EUA to administer mandatory vaccinations.



B. L. GILLINGHAM

Copy to:  
COMPACFLT  
COMUSFLTFORCOM  
OPNAV (N3N5)  
HQMC HS



## ASSISTANT SECRETARY OF DEFENSE

1200 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1200

### HEALTH AFFAIRS

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER  
AND RESERVE AFFAIRS)  
DIRECTOR, DEFENSE HEALTH AGENCY

SUBJECT: Mandatory Vaccination of Service Members using the Pfizer-BioNTech COVID-19  
and Comirnaty COVID-19 Vaccines

On August 23, 2021, the U.S. Food and Drug Administration (FDA) approved the biologics license application for the Comirnaty vaccine, made by Pfizer-BioNTech, as a two-dose series for prevention of coronavirus disease 2019 (COVID-19) in persons aged 16 years or older. Previously, on December 11, 2020, the FDA issued an Emergency Use Authorization (EUA) for the Pfizer-BioNTech COVID-19 vaccine, which has the same formulation as the Comirnaty vaccine. Per FDA guidance, these two vaccines are “interchangeable” and DoD health care providers should “use doses distributed under the EUA to administer the vaccination series as if the doses were the licensed vaccine.”<sup>1</sup>

Consistent with FDA guidance, DoD health care providers will use both the Pfizer-BioNTech COVID-19 vaccine and the Comirnaty COVID-19 vaccine interchangeably for the purpose of vaccinating Service members in accordance with Secretary of Defense Memorandum, “Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members,” August 24, 2021.

My point of contact for this guidance is Colonel (b) (6), who may be reached at (703) 681-8463 or (b) (6).mil@mail.mil.

Terry Adirim, M.D., M.P.H., M.B.A.  
Acting

cc:  
Surgeon General of the Army  
Surgeon General of the Navy  
Surgeon General of the Air Force  
Joint Staff Surgeon

---

<sup>1</sup> FDA, “Q&A for Comirnaty (COVID-19 Vaccine mRNA),” <https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna>, accessed September 10, 2021.



THE ASSISTANT SECRETARY OF THE NAVY  
(MANPOWER AND RESERVE AFFAIRS)  
1000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1000

SEP 08 2021

MEMORANDUM FOR ASSISTANT SECRETARIES OF THE NAVY  
CHIEF OF NAVAL OPERATIONS  
COMMANDANT OF THE MARINE CORPS  
GENERAL COUNSEL OF THE NAVY

SUBJECT: Use of Pfizer-BioNTech Vaccine for Mandatory Vaccination

Reference: (a) Secretary of Defense memorandum, dtd 24 Aug 2021  
(b) ALNAV 062/21, Department of Navy Mandatory COVID-19  
Vaccination Policy  
(c) Comirnaty® Biologics License Application Approval, dtd 23 Aug 2021  
(d) Bureau of Medicine and Surgery Memorandum, Ser M00/21M00035, dtd 3 Sep  
2021

This memorandum clarifies that mandatory COVID-19 vaccinations under references (a) and (b) can utilize the Pfizer-BioNTech and Comirnaty® vaccines because the two vaccines are the same formulation and are interchangeable.

On 23 August 2021, the U.S. Food and Drug Administration (FDA), per reference (c), approved the first COVID-19 vaccine, Pfizer-BioNTech, for the prevention of COVID-19 in individuals 16 years of age and older, and announced that the vaccine will be marketed as Comirnaty®. Since December 11, 2020, the Pfizer-BioNTech vaccine has been available under an Emergency Use Authorization (EUA) for individuals 16 years of age and older, and the authorization was expanded to include those 12 through 15 years of age on May 10, 2021. These two vaccines have the same formulation. The FDA's press announcement is available online at <https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine>.

On 24 August 2021, the Secretary of Defense mandated COVID-19 vaccinations for service members on active duty or in the Ready Reserve, using only COVID-19 vaccines that receive full FDA licensure in accordance with FDA-approved labeling and guidance. Per the FDA's guidance, the Pfizer-BioNTech vaccine distributed under the EUA and the licensed Comirnaty® vaccine have the same formulation and are interchangeable. Navy medical providers can use Pfizer-BioNTech doses previously distributed under the EUA to administer mandatory vaccinations. The Surgeon General has provided amplifying guidance at reference (d).

Maintaining the readiness of our force is everyone's responsibility. Vaccinations continue to be the most effective tool available to prevent the spread of COVID-19.

Robert D. Hogue  
Acting

**SUBJECT: Use of Pfizer-BioNTech Vaccine for Mandatory Vaccination**

**Distribution:**

**ASN (EI&E)**

**ASN(FM&C)**

**ASN(M&RA)**

**ASN(RD&A)**

**ACMC**

**VCNO**

**DUSN**

**GC**

**AUDGEN**

**CHINFO**

**CNR**

**DMCS**

**DNS**

**JAG**

**DON CIO**

**NAVIG**

**NCIS**

**OCMO**

**OLA**

**OSBP**

**Echelon 1 and 2 Commands**



DEPARTMENT OF THE NAVY  
OFFICE OF INFORMATION  
1200 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1200

10 Nov 21

MEMORANDUM

From: Chief of Information  
To: CDR John F. Sharpe, USN

Subj: ORDER TO RECEIVE COVID-19 VACCINE

Ref: (a) Secretary of Defense Memorandum dtd 24 Aug 21  
(b) ALNAV 062/21  
(c) NAVADMIN 190/21  
(d) Bureau of Medicine Memorandum dtd 3 Sep 21  
(e) Assistant Secretary of Defense (Health Affairs) Memorandum dtd 14 Sep 21  
(f) DoDI 6205.02

1. Pursuant to references (a) through (c), coronavirus disease 2019 (COVID-19) vaccination is required for all Navy active duty members and members of the selected reserve and individual ready reserve.

2. You were previously ordered on 24 August, 30 August, 31 August, and 25 October, 2021 to comply with references (b) and (c). As of 9 November 2021, your medical record indicates you have not received a COVID-19 vaccination. As a result, in accordance with references (a) through (e), you are hereby ordered to receive an initial dose of the Food and Drug Administration (FDA)-approved Comirnaty® or FDA-authorized Pfizer-BioNTech COVID-19 vaccine from DiLorenzo Health Clinic by 15 November 2021. Additionally, you are ordered to receive the second dose of the same vaccine by 30 November 2021. You will provide me proof of administration of each dose immediately after receiving it.

a. Although you are not ordered to do so, you may, at your option, satisfy this order by being fully vaccinated using any vaccine granted an FDA Emergency Use Authorization or World Health Organization Emergency Use Listing. However, you must complete the first dose of that vaccine on 15 November 2021.

b. If you have previously completed, or do complete, a vaccination discussed in subparagraph (a) above, you will provide proof of administration by the deadlines in paragraph 2, and ensure this information is recorded in your medical record at your servicing Military Treatment Facility.

c. Presently, the only fully FDA licensed vaccine is Comirnaty®, for which the Pfizer-BioNTech COVID-19 vaccine is interchangeable.

d. If you intend to request an administrative exemption or religious accommodation, you are required to submit the request to me in writing by the initial dose deadline in paragraph (2). If you qualify for a medical exemption as discussed in references (c) and (f), you are required to



Subj: ORDER TO RECEIVE COVID-19 VACCINE

provide proof of the exemption, or proof that you have requested the exemption and its status, by 15 November 2021. An approved request, or a request being reviewed and/or adjudicated, will satisfy this order.

3. This memorandum constitutes a lawful order. Violation will constitute a failure to obey a lawful order and is punishable under the Uniform Code of Military Justice and/or may result in administrative action.

4. If you have concerns about the COVID-19 vaccine, you may contact:

a. Medical Concerns: DiLorenzo TRICARE Health Clinic; Comm: (703)692-8810

b. Legal Concerns: Defense Service Office North; Comm: (202)685-5595; Duty Officer: (202) 420-1267; DSONorthDefense@us.navy.mil.

c. Religious Concerns: Pentagon Chaplaincy; Comm: (703)695-3336; usarmy.pentagon.hqda.mbx.pentaon-chaplain-mailbox@mail.mil.

5. My POC for this matter is CDR (b) (6) who can be reached at (b) (6) mil@us.navy.mil and (703) 697-7392.



C. W. BROWN

---

15 Nov 21

FIRST ENODRSEMENT

From: CDR John F. Sharpe, USN  
To: Chief of Information

1. I acknowledge receipt of this order.

2. I understand that any request for extension of the deadlines in this order must be in writing, addressed to you, and filed prior to the expiration of the deadlines in paragraph (2) of your order.



J. F. SHARPE

\* See ltr of 15 Nov 21  
submitted today.

15 Nov 21

From: CDR John F. Sharpe, USN (ret.)  
To: Chief of Information (CHINFO)  
Via: Deputy Chief of Information

VIA HAND DELIVERY TO CDR REANN S. MOMMSEN, USN, EXECUTIVE ASSISTANT TO  
THE CHINFO

Subj: YOUR LTR OF 10 NOVEMBER 2021

Ref: (a) My e-mail ltr of 9 Nov 21  
(b) YNC (b) (6) e-mail ltr of 9 Nov 21  
(c) 10 U.S.C. § 1034  
(d) 21 U.S.C. § 360bbb-3  
(e) 42 U.S.C. § 262  
(f) SECDEF Memo of 24 August 2021, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members*  
(g) SECNAV WASHINGTON DC 302126Z Aug 21 (ALNAV 026/21)  
(h) CNO WASHINGTON DC 311913Z Aug 21 (NAVADMIN 190/21)  
(i) Navy Regulations Art. 1144  
(j) Title 10, U.S. Code, Chapter 47, Subchapter X  
(k) Title 18, U.S. Code  
(l) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(m) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(n) Your ltr (unserialized) of 10 Nov 21  
(o) SECNAV M-5216.5  
(p) 10 U.S.C. § 1107a  
(q) DoD Instruction 1300.17 of 1 September 2020  
(r) SECNAVINST 1730.8B  
(s) BUPERSINST 1730.11A  
(t) NAVPERS 15560D  
(u) BUMEDINST 6230.15B  
(v) 10 U.S.C. § 8167  
(w) Navy Regulations Arts. 1130 and 1132  
(x) SECNAVINST 5350.15D  
(y) SECNAVINST 5215.1E  
(z) Navy Regulations Art. 1137  
(aa) CNO WASHINGTON DC 011621Z Nov 21 (NAVADMIN 249/21)

Encl: (1) DHA Form 207 (Oct. 21)  
(2) Vaccine Information Fact Sheet pp 6-7 (29 Oct 21)  
(3) Vaccine Information Fact Sheet pp 7-9 (29 Oct 21)

1. On 9 November 2021, I e-mailed reference (a) to your Chief Yeoman and Assistant Chief of Information for Administration (OI-1), for your review. It is a detailed outline of my concerns with respect to the legality and propriety of way in which the Departments of Defense (DoD) and of the Navy (DoN) are currently implementing the coronavirus disease (COVID-19) vaccination program. The email was acknowledged on

Subj: YOUR LTR OF 10 NOVEMBER 2021

Pfizer EUA Vaccine with the fully FDA-licensed product (referred to as "COVID-19 Vaccine, mRNA," tradename Comirnaty®) - in serious violations of references (j)<sup>6</sup> and (k).<sup>7</sup> Likewise, those who promulgate orders representing that the violation of references (f) through (h) is somehow authorized by ASD, ASN, and SGON are arguably implicated in violations of the provisions of references (j) and (k) pertaining to false official statements.<sup>8</sup>

2. In response to my plea for help, reference (l) cancelled my temporary additional duty (TAD) at Defense Media Activity (DMA), Ft. Meade, Md., for one day, effective 0800 15 November 2021. A subsequent email, reference (m), clarified in response to my query that the purpose of the suspension of my TAD was so that you could provide "information and direction."

3. As order, I reported to your spaces in person at 0800 today to find that you are currently away from the office for a week of temporary duty. I was instead summoned to a meeting with your Deputy Chief of Information, CAPT (b) (6), USN, MCCM (b) (6), your Senior Enlisted Advisor, and CDR (b) (6), USN, your Executive Assistant. During the meeting I was presented with reference (n). Beyond the contents of reference (n), I was presented with no additional information or direction.

4. Reference (n) orders me to "receive an initial dose of the Food and Drug Administration (FDA)-approved Comirnaty® or FDA-authorized Pfizer-bioNTech COVID-19 [V]accine from DiLorenzo Health Clinic by 15 November 2021"<sup>9</sup> and to "receive the second dose of the same vaccine by 30 November 2021." Reference (n) also directs me to request a religious accommodation, if that is my intention, no later than today, 15 November 2021. Finally, it includes a pre-written endorsement at the bottom of page 2, drafted over my signature block, which I was ordered to sign.

5. Reference (o) provides that an endorsement is used only when a "via" addressee either redirects or transmits a standard Navy letter through the chain of command; it is not used to reply.<sup>10</sup> Because reference (n)'s pre-prepared endorsement is therefore improper, I decline to sign it. As your letter requests, however, I hereby acknowledge having received it today.

---

although "[t]he Pfizer [Vaccine] has the same formulation as Comirnaty[, it] is legally distinct and can be manufactured, marketed, distributed, and administered only pursuant to the [Emergency Use Authorization (EUA)] . . . . If FDA had revoked the EUA when it approved the Comirnaty

[Biologics License Application], the remaining Pfizer-BioNTech vaccine doses would have been unauthorized and unable to be used." 5. CRS, "FDA Approval of the Pfizer-BioNTech COVID-19 Vaccine: Frequently Asked Questions," CRS Report R46913, Sep. 29, 2021, at 5.

<sup>6</sup> These likely include violations under 10 U.S.C. §§ 892, 893, 928, 933, and 934.

<sup>7</sup> *Inter alia* arguable including crimes under reference (k) §§ 241 and 242.

<sup>8</sup> See 10 U.S.C. § 907 and 18 U.S.C. §1001.

<sup>9</sup> CAPT (b) (6) informed me during the meeting that a 1000 appointment had been made for me at DiLorenzo at the Pentagon.

<sup>10</sup> Reference (o) ¶ 9-1 ("Do not use an endorsement to reply to a routine letter").

Subj: YOUR LTR OF 10 NOVEMBER 2021

contained the following language under a heading, "WHAT IF I DECIDE NOT TO GET COMIRNATY (COVID-19 VACCINE, mRNA) OR THE PFIZER-BIONTECH COVID-19 VACCINE)?: "Under the EUA, it is your choice to receive or not receive the vaccine."

c. Once I pointed out this information, I was directed to raise my concerns with a series of military personnel, to include a Navy Lieutenant, who directed me to the senior enlisted personnel supervising the vaccine administration operation at DiLorenzo, who included an Army Sergeant First Class (SFC) and HMI (b) (6). (b) (6) I pointed out to the SFC that I was not given a full Fact Sheet, pursuant to the DHA Form 207 instructions. She indicated that the shot clinic did not have fact sheets in stock, but produced a set of papers (enclosure (3)) containing a QR code that, she said, permitted me to look them up on my own. I further stated to the SFC and HMI that, in view of the language of the fact sheet, I was only willing to accept vaccination with Comirnaty®. They both indicated that they had none in stock, had never seen any, and were under the impression that none existed across the Defense Health Agency (DHA) logistics enterprise. Following our conversation, HMI recommended that I speak with leadership at DiLorenzo and escorted me to the clinic proper.

d. Following HMI's introduction, I had a lengthy conversation with Dr. (b) (6) Director for Medical Services. I explained my concern to him that not only was I being pressured to accept as fully licensed a product that clearly is authorized for use only under EUA - which carries with it a right to decline - but that numerous service members who were vaccinated under the "mandatory" rubric since reference (f) was promulgated were, in effect, induced into consenting to such vaccination on the basis of a patent misrepresentation. Dr. (b) (6) indicated that he understood my position but was operating under guidance from ASD(HA). I replied by offering my condolences that the medical establishment had been put in the position of "carrying the water" for the inexplicable and clearly improper approach taken throughout the DoD to COVID vaccinations, where, on the one side, service members are told that they only need submit to vaccination with a fully FDA-licensed product, and, on the other, medical personnel are told that they are "authorized" to administer a product authorized pursuant to EUA when members report for their "mandatory" vaccine. Dr. (b) (6), quite honorably, did not deny the conundrum or the awkwardness of being placed "in the middle."

e. During the course of my conversation with Dr. (b) (6) he also confirmed that Pfizer is not manufacturing Comirnaty® due to the over-supply of the Pfizer EUA Vaccine, and that no Comirnaty® is expected at any precise point in the future to arrive for introduction into the DHA supply system.

f. Following my conversation with Dr. (b) (6) I visited the Pentagon spaces of the Office of the Judge Advocate General (Code 13)

Subj: YOUR LTR OF 10 NOVEMBER 2021

vaccine, I attempted to locate the legally approved product and was unable to do so. I confirmed simultaneously that current information from senior Pentagon healthcare officials suggests that the product is not being manufactured and is therefore not available in the DoD/DHA supply system. I also confirmed that no allegedly BLA-compliant lot of the Pfizer EUA Vaccine is available, though I strenuously deny that receipt of any such product can lawfully be made mandatory.

9. With respect to reference (n)'s requirement (at ¶ 2d) that I request a religious accommodation with regard to either the Pfizer or Comirnaty® vaccine no later than 15 November 2021, I respectfully decline, while reserving the right to do so at a later time if I believe that appropriate. As reference (a) notes, references (q) through (u) place no deadline<sup>16</sup> upon a service member's request for immunization exemption on the basis of religious accommodation; such a request is inherently a matter of the member's initiative and discretion. Moreover, a request at this juncture would be unripe and inappropriate, insofar as, with respect to the Pfizer EUA Vaccine, there is no lawful policy from which to be accommodated, and, with respect to the fully licensed Comirnaty®, there is no product available and, consequently, compliance with the policy is impossible. Finally, in view of the grave concerns I have articulated herein and at reference (a) with respect to the DoD and DoN's implementation of COVID vaccination policy, I believe it would be highly improper for me to use the religious accommodation process as some kind of "off-ramp" or excuse to "look the other way" when the problem I am facing - confronting a clearly unlawful order - has likely and arguably been confronted by hundreds if not thousands of my fellow service members since reference (f) was promulgated. In sum, and respectfully, when the Navy embarks on a legally defensible course for implementation of references (f) through (h), I will, if my conscience dictates, request an accommodation from such implementation under references (q) through (u). Until then, I will fulfill my oath of office and defend the Constitution of the United States,<sup>17</sup> as I have sworn multiple times to do, even in the admittedly unpleasant and unenviable situation where, respectfully, it must be defended where those who are also charged with upholding it fail to do so. And, the Oath aside, statute and regulation (references (v) through (y)) require no less.

10. Finally, I note that reference (n) does not renew the request or restate your requirement, previously received, that I sign the Page 13

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<sup>16</sup> Moreover, as reference (q) properly points out, "Pursuant to the Free Exercise Clause of the First Amendment to the United States Constitution, Service members have the right to observe the tenets of their religion" (*id.* ¶ 1.2a). That right does not expire or its limitations period run by virtue of a service-member's failure to request an accommodation on a arbitrarily established deadline.

<sup>17</sup> As noted *supra*, at its worst, the administration of a vaccine distributed pursuant to EUA on the basis of a representation that such administration is not optional obtains the vaccinee's consent fraudulently and violates his bodily integrity, namely, his liberty, without due process of law, contrary to the Fifth Amendment to the U.S. Constitution. Everyone charged with defending the latter must object to that course of action in the strongest possible terms.



# COVID-19 VACCINE SCREENING AND IMMUNIZATION DOCUMENTATION

OMB No. 0725-0068  
OMB Approval Expires  
August 31, 2024

## PRIVACY ACT STATEMENT

**AUTHORITY:** DHA-IPM 20-004 "DoD Coronavirus Disease (COVID-19) Vaccination Program Implementation" Public Law 104-191 10 U.S.C. Chapter 55 Medical and Dental Care

**PURPOSE:** To determine if the COVID-19 vaccine can be administered to the patient.

**ROUTINE USES:** Information in your records may be disclosed to other components within the MHS for the purpose of continuing medical care and determining military readiness. Additionally, this information may be shared with the Departments of Veterans Affairs and Health and Human Services and other local, state, and federal public health agencies for the purposes of satisfying public health and vaccination reporting requirements and responding to the COVID-19 pandemic.

Any protected health information (PHI), including mental health and substance abuse information, in your records may be used and disclosed generally as permitted by the HIPAA Privacy Rule (45 CFR Parts 160 and 164), as implemented within DoD by DoDM 5025.18. Permitted uses and disclosures of PHI include, but are not limited to, treatment, payment, and healthcare operations. A complete listing of the applicable routine uses may be found in the associated System of Records Notice (SORN).

**APPLICABLE SORN:** EDHA 07 Military Health Information System (June 15, 2020, 35 FR 36190) <https://dpcdd.defense.gov/Portals/49/Documents/Privacy/SORNs/EDHA-07.pdf>

**DISCLOSURE:** Voluntary. If you choose not to provide your information, no penalty or adverse action will be taken against you. However, there may be a delay in the appropriate medical entry in your electronic health record.

1. NAME (Last, First, Middle Initial)

Singer John F

5. CATEGORY ☒ Service Member ☐ Beneficiary

## PART I - COMPLETED BY PATIENT

YES NO

(1) Would you like to speak with a healthcare team member before receiving the COVID-19 vaccine?

☒ ☐

(2) Are you currently sick, feel ill, or have a fever over 100°F?

☐ ☒

(3) Have you received a COVID-19 vaccine before? If so, how many doses? ☐ 1 ☐ 2 ☐ 3

Which one \_\_\_\_\_ Date of last dose \_\_\_\_\_

☐ ☒

(4) Have you had an adverse or allergic reaction to a prior COVID vaccine, anaphylaxis due to any cause, or allergic reaction to any other vaccine or injectable therapy?

☐ ☒

(5) Do you have hemophilia or other bleeding disorder or take a blood thinner?

☐ ☒

(6) Do you have a history of or a risk factor for a blood clotting disorder?

☐ ☒

(7) Are you, or might you be, pregnant?

☐ ☒

(8) Do you have an immunocompromising condition (HIV/AIDS, cancer, leukemia, etc.) or take an immunocompromising medicine or treatment (steroids, chemotherapy, radiation therapy, etc.)?

☐ ☒

(9) Are you planning to receive other vaccines in addition to COVID-19 vaccine, today? (While it is a CDC best practice to administer multiple vaccines at a single visit, it is currently unknown whether the response to the COVID-19 vaccination will be affected by the co-administration of other vaccines.)

☐ ☒

(10) Have you received a monoclonal antibody preparation or Convalescent Plasma within the past 90 days?

☐ ☒

6. ACKNOWLEDGMENT: I have read or had explained to me the information in the Coronavirus Vaccine

Emergency Use Authorization (EUA) Fact Sheet or the Vaccine Information Fact Sheet for

COMIRNATY /Pfizer-BioNTech COVID-19 Vaccine. I have also had a chance to ask questions for myself and/or child, including vaccine co-administration, if applicable.

☐ ☐

a. FORM COMPLETED BY (print name):

b. DATE

## PART II - COMPLETED BY SCREENER

### 7. ASSESSMENT

☒ Pfizer ☐ Moderna ☐ Janssen

☒ Dose #1 ☐ Dose #2 ☐ Dose #3

☐ Do not give COVID-19 vaccine today

☐ Refer to experienced provider for further evaluation

8. Vaccine Information Material provided (check box)

☐ EUA Vaccine Fact Sheet for Vaccine Recipients of Janssen or Moderna COVID-19 Vaccine

☒ Vaccine Information Fact Sheet for Recipients of COMIRNATY or Pfizer-BioNTech COVID-19 Vaccine

### 9. SCREENER INFORMATION

a. NAME

(b) (6)

2021 11 15

b. DATE (YYYYMMDD)

## PART III - COMPLETED BY VACCINATOR

### 10. VACCINE ADMINISTERED

☐ Pfizer COVID-19 vaccine (≥ 12 yrs of age)

☐ Moderna COVID-19 vaccine (≥ 18 yrs of age)

☐ Janssen (J&J) COVID-19 vaccine (≥ 18 yrs of age)

11. LOT #

12. EXPIRATION DATE (YYYYMMDD)

13. DOSE

☐ 0.25 mL IM ☐ 0.3 mL IM

☐ 0.5 mL IM

14. SITE

☐ Left Deltoid

☐ Right Deltoid

### 15. COMMENTS

### 6. VACCINATOR INFORMATION

a. NAME

b. DATE (YYYYMMDD)

### 7. ASIMS / MEDPROS / MRRS / AHLTA / MHS GENESIS Entry

a. NAME

b. DATE (YYYYMMDD)

HA FORM 207, OCT 2021

PREVIOUS EDITION IS OBSOLETE

Page 1 of 2  
AEM Designer 8.4  
v 15

ENCLOSURE (1) 1/2

5/21 avail e CVS  
- no fact sheet provided  
- " " available



- Difficulty breathing
- Swelling of your face and throat
- A fast heartbeat
- A bad rash all over your body
- Dizziness and weakness

Myocarditis (inflammation of the heart muscle) and pericarditis (inflammation of the lining outside the heart) have occurred in some people who have received the vaccine. In most of these people, symptoms began within a few days following receipt of the second dose of vaccine. The chance of having this occur is very low. You should seek medical attention right away if you have any of the following symptoms after receiving the vaccine:

- Chest pain
- Shortness of breath
- Feelings of having a fast-beating, fluttering, or pounding heart

Side effects that have been reported with the vaccine include:

- severe allergic reactions
- non-severe allergic reactions such as rash, itching, hives, or swelling of the face
- myocarditis (inflammation of the heart muscle)
- pericarditis (inflammation of the lining outside the heart)
- injection site pain
- tiredness
- headache
- muscle pain
- chills
- joint pain
- fever
- injection site swelling
- injection site redness
- nausea
- feeling unwell
- swollen lymph nodes (lymphadenopathy)
- decreased appetite
- diarrhea
- vomiting
- arm pain
- fainting in association with injection of the vaccine

These may not be all the possible side effects of the vaccine. Serious and unexpected side effects may occur. The possible side effects of the vaccine are still being studied in clinical trials.

**WHAT SHOULD I DO ABOUT SIDE EFFECTS?**

If you experience a severe allergic reaction, call 9-1-1, or go to the nearest hospital.

ENCLOSURE (2) 1/2

immunocompromised, and you should continue to maintain physical precautions to help prevent COVID-19. In addition, your close contacts should be vaccinated as appropriate.

#### **WHAT IF I AM PREGNANT OR BREASTFEEDING?**

If you are pregnant or breastfeeding, discuss your options with your healthcare provider.

#### **WILL THE VACCINE GIVE ME COVID-19?**

No. The vaccine does not contain SARS-CoV-2 and cannot give you COVID-19.


#### **KEEP YOUR VACCINATION CARD**

When you get your first dose, you will get a vaccination card to show you when to return for your next dose(s) of the vaccine. Remember to bring your card when you return.

#### **ADDITIONAL INFORMATION**

If you have questions, visit the website or call the telephone number provided below.

To access the most recent Fact Sheets, please scan the QR code provided below.

Global website	Telephone number
<a href="http://www.cvdvaccine.com">www.cvdvaccine.com</a> 	1-877-829-2619 (1-877-VAX-CO19)

#### **HOW CAN I LEARN MORE?**

- Ask the vaccination provider.
- Visit CDC at <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.
- Visit FDA at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.
- Contact your local or state public health department.

#### **WHERE WILL MY VACCINATION INFORMATION BE RECORDED?**

The vaccination provider may include your vaccination information in your state/local jurisdiction's Immunization Information System (IIS) or other designated system. This will ensure that you receive the same vaccine when you return for the second dose. For more information about IISs visit: <https://www.cdc.gov/vaccines/programs/iis/about.html>.

#### **CAN I BE CHARGED AN ADMINISTRATION FEE FOR RECEIPT OF THE COVID-19 VACCINE?**

No. At this time, the provider cannot charge you for a vaccine dose and you cannot be charged an out-of-pocket vaccine administration fee or any other fee if only receiving a



This EUA for the Pfizer-BioNTech COVID-19 Vaccine and COMIRNATY will end when the Secretary of HHS determines that the circumstances justifying the EUA no longer exist or when there is a change in the approval status of the product such that an EUA is no longer needed.



Manufactured by  
Pfizer Inc., New York, NY 10017

**BIONTECH**

Manufactured for  
BioNTech Manufacturing GmbH  
An der Goldgrube 12  
55131 Mainz, Germany

LAB-1451-11.2

Revised: 29 October 2021



Scan to capture that this Fact Sheet was provided to vaccine recipient for the electronic medical records/immunization information systems.

Barcode date: 09/30/2021

23 Nov 21

From: CDR John F. Sharpe, USN (ret.)  
To: Chief of Information

VIA EMAIL (b) (6) .MIL@US.NAVY.MIL; (b) (6) @NAVY.MIL

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

Ref: (a) JAGINST 5800.7G  
(b) 10 U.S.C. § 938  
(c) ASD(HA) Memo (undated)  
(d) ASN(M&RA) Memo of 8 Sep 21  
(e) BUMED Memo 6300 Ser M00/21M00035 of 3 Sep 21  
(f) SECDEF Memo of 24 August 2021, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members*  
(g) SECNAV WASHINGTON DC 302126Z Aug 21(ALNAV 026/21)  
(h) CNO WASHINGTON DC 311913Z Aug 21 (NAVADMIN 190/21)  
(i) CNO WASHINGTON DC 152239Z Nov 21 (NAVADMIN 256/21)  
(j) CNO WASHINGTON DC 011621Z Nov 21 (NAVADMIN 249/21)  
(k) 10 U.S.C. § 1107a  
(l) PHONECON CHINFO RDML Brown / CDR Sharpe of 25 May 21

Encl: (1) My e-mail ltr of 28 Oct 21  
(2) CHINFO/CAPT (b) (6) e-mail ltr of 29 Oct 21  
(3) CHINFO/CAPT (b) (6) e-mail ltr of 29 Oct 21  
(4) CHINFO/CAPT (b) (6) e-mail ltr of 29 Oct 21  
(5) CHINFO/CAPT (b) (6) e-mail ltr of 2 Nov 21  
(6) My e-mail ltr of 9 Nov 21  
(7) My e-mail ltr of 9 Nov 21  
(8) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(9) My ltr of 15 Nov 21  
(10) My e-mail ltr of 16 Nov 21  
(11) CHINFO/CAPT (b) (6) e-mail ltr of 17 Nov 21  
(12) CHINFO/CAPT (b) (6) e-mail ltr of 17 Nov 21

1. As required by reference (a) and pursuant to reference (b), I respectfully request redress of the wrongs detailed herein.

2. Background.

a. On 19 October 2021 and again on 25 October 2021 I received from you via your Chief Yeoman for administration a NAVPERS 1070/613 which ordered me to become fully vaccinated for COVID-19 by 28 November 2021. It further stated:

The U.S. Food and Drug Administration (FDA) approved the first COVID-19 vaccine, Pfizer-BioNTech, for the prevention of COVID-19 in individuals 16 years of age and older, and announced that the vaccine will be marketed as Comirnaty. Accordingly, the Secretary of Defense (SECDEF) has directed full vaccination of all service members in the Armed Forces on active duty or in the Ready Reserve who are not fully

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

vaccinated against COVID-19. Mandatory vaccination can only use COVID-19 vaccines that receive full licensure from the FDA, in accordance with FDA-approved labeling and guidance. Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable; Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations.

b. On 28 October 2021 I asked your deputy to provide me with information as to the availability of the fully FDA-licensed COVID-19 vaccine. (enclosure (1)) He replied by stating that "FDA approved COVID vaccines are available on demand at the Pentagon." (enclosure (2))

c. On 29 October 2021, he indicated that "[t]he only vaccines being administered at MTFs . . . are FDA approved." (enclosure (3)) He later corrected himself and stated that the "Pfizer/Comirnaty vaccine . . . is the only one as yet fully licensed." (enclosure (4)) He added that it "is available at the Pentagon."

d. On 2 November 2021 your deputy wrote to provide memoranda "relat[ing] to which vaccines meet the 'fully licensed' marker." (enclosure (5)) The memoranda, references (c) through (e), addressed the existence of two products, Pfizer-BioNTech COVID-19 Vaccine, authorized under Emergency Use Authorization (EUA) by the FDA, and Comirnaty (COVID-19 Vaccine, mRNA), fully approved (also called "licensed") by the FDA. The memoranda assert that the two products are "interchangeable" but are silent with respect to the question as to whether the "interchangeability" affects a service member's right to decline to receive the FDA-authorized EUA product. Notably, the memoranda are not addressed to service members; do not purport to order them to do anything with respect to accepting vaccination with the EUA product; do not cite FDA's statement that the vaccines "are legally distinct with certain differences";<sup>1</sup> and do not cite FDA or other authority for the proposition that FDA's statement that the two vaccines "can be used interchangeably to provide the vaccination series without presenting any safety or effectiveness concerns"<sup>2</sup> removes from the EUA vaccine the option to decline its administration which is attached to it by law and is memorialized in its labeling.

e. On 9 November 2021 I wrote to you via your Chief Yeoman who has been corresponding with me on your behalf regarding the required COVID-19 vaccination. In that e-mail (enclosure (6)) I explained my efforts, up to that point and also then ongoing, to locate the fully FDA-licensed COVID-19 vaccine product at a military treatment facility (MTF) in the national capital region (NCR) in order to comply with references (f) through (h). Those references require service members to become fully vaccinated with a fully FDA-licensed vaccine; reference (c), furthermore, makes abundantly clear that **only** a fully

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<sup>1</sup> FDA Letter of Authorization to Pfizer Inc. of 23 August 2021, p. 2 n8.

<sup>2</sup> *Id.*

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

FDA-licensed vaccine may be used to implement the mandatory vaccination requirement. In my e-mail I also explained my concern regarding the inadequacy of references (c) through (e) and the ongoing infringement upon the rights of service members to decline the EUA product. I received no reply to that email, other than a note stating it had been received and delivered to you.

f. Also on 9 November 2021 I received an order from your deputy to submit a vaccination exemption, "get vaccinated," or articulate my refusal to do so. I replied indicating that I did **not** refuse to be vaccinated with the fully FDA-licensed product, and that I was waiting on him to provide information to me (as reference (e)) requires as to where the fully FDA-licensed vaccine was available. (enclosure (7))

g. Later that day, my temporary duty at the Defense Media Activity (DMA) in Ft. Meade, Md., was cancelled for the duration of one day, in lieu of which I was to report to you on 15 November 2021 to receive information and direction. (enclosure (8))

h. I reported to you as ordered on 15 November 2021. In lieu of receiving anything from you personally, insofar as you had a weeks' absence from the office, previously scheduled, I received a written document dated 10 November 2021 and signed by you. In pertinent part, it: 1) ordered me to receive on 15 November 2021 a dose of the fully FDA-licensed Comirnaty® vaccine; 2) ordered me to receive on the same day a dose of the FDA-authorized Pfizer-BioNTech COVID-19 Vaccine as an alternative to receiving a dose of the licensed product; and 3) stated that I had the option of receiving, though I was not ordered to receive, an alternative vaccine product. The document cited references (c) and (e) as references in the order it memorialized for me to receive an initial dose of either the FDA-licensed or -authorized product. While it did correctly note that "the only fully FDA licensed vaccine is Comirnaty®," it also asserted that "the Pfizer[-]BioNTech COVID-19 [V]accine is interchangeable" with the licensed product.

i. In compliance with the first part of your order, I reported to DiLorenzo clinic in the Pentagon, at the time of the appointment your staff had made for me. I sought out but was unable to obtain the FDA-licensed vaccine. Following that, I provided to you a letter (enclosure (9)) outlining my experience that day and expressing my objection to the part of your order that directed me to receive a dose of the FDA-authorized vaccine product. I departed your spaces thereafter pursuant to direction from your deputy to resume my duties at DMA. As was the case with my email of 9 November, I received no reply.

j. The following day (16 November 2021), I wrote to your deputy informing him that, pursuant to recent orders and your direction, I would continue to try to obtain the fully FDA-licensed vaccine in the NCR, and asking if he wished me to continue to do so. (enclosure (10)) I reminded him that reference (h) orders commanders to provide vaccine

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

availability and location information to their subordinates, and again requested that information. He replied the following day (enclosure (11)) by restating the terms of the vaccination policies above referenced, affirming that I was ordered to receive a dose of the FDA-authorized product in lieu of the availability of the fully licensed product, and asserting that I declined to receive "the vaccine," without acknowledging that, as I explained to him the day before, I sought out the licensed product and found it unavailable, and that I only exercised my right under federal law, Secretary of Defense policy, and department and service regulations, directives, and policies to decline to receive a vaccine product that has merely received FDA emergency authorization.

k. Also on 17 November 2021, your deputy again cancelled my temporary assignment to DMA (enclosure (12)) effective 1600 today, citing reference (i) ¶ 4b:

Commanders will notify those Navy service members *refusing the vaccine* who are executing funded or no-cost TAD orders for training, or any other official purpose, to halt their assigned activity and return to their command within five working days.

(emphasis supplied) With this communication, your deputy indicated that I am being considered by your command as "refusing the vaccine."

l. Reference (i) ¶ 3c defines "Refusing the vaccine" as follows:

A Navy service member refusing the vaccine is one who has: (1) received a lawful order to be fully vaccinated against COVID-19, (2) is not or will not be fully vaccinated on the date required by the order, and (3) does not have a pending or approved exemption request.

m. My current status satisfies the second and third elements of the definition of having "refused the vaccine" but does not satisfy the first, insofar as the order to accept the Comirnaty® vaccine or the Pfizer-BioNTech COVID-19 Vaccine is either incapable of being complied with or unlawful.

n. A report of my currently unvaccinated status was required by reference (j) to be made no later than 19 November 2021 to the Department of the Navy COVID Tracking Site ("DON COVID Tracker"). On information and belief, your staff reported me as "unvaccinated, refuser" per the reference ¶ 3.

o. To date, neither you nor any member of your staff has provided me with information as to where the fully FDA-licensed COVID-19 vaccine is available within MTF system.

p. On information and belief, you have taken no investigative or corrective action with regard to potential violations of federal law and regulation arising from the way in which the COVID-19 vaccination program has been implemented, as outlined in enclosures (6) and (9).

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

3. Request for redress.

a. I respectfully assert that you have wronged me by:

(1) Issuing me a NAVPERS 1070/613 which falsely states that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations," when that purported "authorization" is contrary to federal law, department and service regulation, the express direction of references (f) through (h), and FDA administrative guidance with respect to the continuing authorization under EUA for the stocked and currently available Pfizer-BioNTech COVID-19 Vaccine, and when it likewise is predicated upon authority that references (c) through (e) do not possess in view of other and contrary controlling law.

(2) Failing to provide me, as required by reference (h) ¶ 3e(3), "information and guidance regarding vaccine availability [of] and administering locations [for]" the FDA-approved Comirnaty®, consistent with its labeling, as reference (f) requires.

(3) Ordering me to submit over my objection and without my consent to vaccination with the FDA-authorized product, which you admit is not fully FDA-licensed.

(4) Ordering me to receive vaccination with a fully FDA-licensed product which neither you nor the military health system have made or can make reasonably available to me.

(5) Categorizing me as "refusing the vaccine" presumably because my status fits the first as well as (admittedly) the second and third elements of the definition of "refusing the vaccine," even though I have not "received a lawful order to be fully vaccinated against COVID-19," because the order, in the case of FDA-approved Comirnaty®, is incapable of being fulfilled,<sup>3</sup> and, in the case of the FDA-authorized Pfizer-BioNTech, absent a Presidential waiver under reference (k) of my right to decline the administration to me of a product that has not been fully licensed by the FDA, it is unlawful.

(6) On information and belief, reporting me to the DON COVID Tracker as "unvaccinated, refuser."

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<sup>3</sup> See *United States v. Pinkston*, 21 C.M.R. 22, 27 (U.S. C.M.A. 1956) (noting that it would be "downright shocking" to hold an accused liable for criminal disobedience of an order where he sincerely sought to comply with it but was incapable of doing so); accord *United States v. Stovall*, 44 C.M.R. 576, 580 (A.F.C.M.R. 1971) (noting that it is "common sense that a person is not guilty of a criminal offense when, as to the offense charged against him, he was [subject to] extrinsic forces over which he had no control"); *United States v. Borell*, 46 C.M.R. 1108, 1111 (A.F.C.M.R. 1973) ("Impossibility of performance is an affirmative defense in disobedience of orders cases."); see also *Winthrop Military Law and Precedent* § 883 (listing "physical impossibility" as "excusing a complete performance" of an order); *Manual for Courts-Martial* (2019) Part IV ¶ 16c(2)(f) (requiring "an intentional defiance of authority" to find "[w]illful disobedience" (emphasis supplied)).

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

(7) Cancelling my temporary assignment to DMA effective 1600 today on the basis of your improperly categorizing me as refusing the vaccine.

(8) Taking no investigative or corrective action to remedy the violation of law and regulation alluded to in enclosures (6) and (9), thereby subjecting me to improper pressure and unlawful orders by your personal staff to consent to vaccination with a non fully FDA-licensed product and personally to acquiesce or provide the appearance of acquiescing in behavior by MTF staff and leadership that perpetuates the continuing statutory and regulatory violations detailed in the enclosures.

b. I respectfully request as redress that you:

(1) Provide me, as required by reference (h) ¶ 3e(3), "information and guidance regarding vaccine availability [of] and administering locations [for]" the FDA-approved Comirnaty®.

(2) Modify the portion of your 10 November 2021 order relating to the requirement to receive two doses of Comirnaty® to specify that I am required to receive those doses within a reasonable time after the vaccine becomes reasonably available for administration within the MTF enterprise.

(3) Withdraw as unlawful the portion of your 10 November 2021 order that requires me to receive doses of the FDA-authorized Pfizer-BioNTech COVID-19 Vaccine.

(4) With regard to the above-noted NAVPERS 1070/613 (¶ 3a(1)):

(a) Withdraw it;

(b) Modify it by removing the statement "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable; Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations"; or,

(c) Modify it by removing the statement "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations" and revising the statement "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable" to read, "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and can be used interchangeably to provide the vaccination series without presenting any safety or effectiveness concerns, although they are legally distinct with certain differences."

(5) Reverse your categorization of me as "refusing the vaccine" pursuant to reference (i).

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

(6) Modify your report of me as "unvaccinated, refuser" to the DON COVID Tracker, seek further guidance from the COVID Consolidated Disposition Authority (CCDA) or other officials having custody of DON COVID Tracker data as to how properly to report a service member who is unvaccinated due to the unavailability of a fully FDA-licensed vaccine within the MTF enterprise, recommend to the CCDA or other responsible officials that a category be created to accurately report service members who are not pending or in receipt of an exemption, not operationally inaccessible, and not "refusers" because they have not refused to accept vaccination with a fully FDA-licensed product.

(7) Restore my temporary assignment to DMA to extend through 31 May 2022 pursuant to the original orders of reference (1).

(8) In the alternative to redress requested at ¶¶ 3b(3)-(7):

(a) Provide me documentary evidence substantiating the claim implied in your 10 November 2021 document that the EUA-authorized Pfizer-BioNTech COVID-19 Vaccine can be used interchangeably with the fully FDA-licensed Comirnaty® (COVID-19 Vaccine, mRNA) for purposes of creating a lawful military requirement that I consent to vaccination with the Pfizer-BioNTech COVID-19 Vaccine, when references (f) through (h) mandate vaccination with "only" a FDA-approved product and the President has not waived under reference (k) my right to decline the administration to me of a product that is only FDA-authorized for emergency use.

(b) Provide me documentary evidence substantiating your authority - absent a Presidential waiver under reference (k) of my right to decline the administration to me of a product that is only FDA-authorized for emergency use - to order me to receive vaccination, over my objection and without my consent, with the Pfizer-BioNTech COVID-19 Vaccine, which you acknowledge in your memorandum of 10 November 2021 is authorized rather than fully licensed by the FDA.

(c) Provide me documentary evidence substantiating the express intent of the Secretary of Defense, the Secretary of the Navy, and the Chief of Naval Operations, to contradict, nullify, rescind, or otherwise modify the language of their directives at references (f) through (h) - that mandatory COVID-19 vaccination will use **only** fully FDA-licensed vaccines - on the basis of an FDA remark that for safety, effectiveness, or other medical prophylactic purposes, the emergency authorized product can be used "interchangeably" with a fully FDA-licensed product, so as to direct me to present myself for non-consensual vaccination with a product that is not fully FDA-licensed.

(d) Since your 10 November 2021 document cites references (c) and (e) for the proposition that I can be lawfully ordered to accept over my objection and without my consent the Pfizer-BioNTech COVID-19 Vaccine, provide me documentary evidence substantiating that the Assistant Secretary of Defense (Health Affairs) and the Navy



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Surgeon General: 1) exercise direct command authority over Navy medical personnel sufficient to enable the former lawfully to order the latter to administer an EUA-authorized vaccine in lieu of a licensed vaccine when service members present themselves for vaccination on the basis of a reasonable belief that they are only required to receive, and that they are in fact receiving, a fully FDA-licensed product; and 2) possess authority over naval service members, in their capacity as potential vaccinees, adequate to revoke their right, absent a Presidential waiver thereof under reference (k), to decline administration to them of a product that is only FDA-authorized for emergency use, especially in the face of express direction to the contrary provided at references (f) through (h).

(e) Provide me documentary evidence substantiating **verbatim** the claim in the NAVPERS 1070/613 you issued as well as in references (c) and (d) that Comirnaty® and the Pfizer-BioNTech COVID-19 Vaccine "are interchangeable" and not simply that they "*can be used interchangeably to provide the vaccination series* without presenting any safety or effectiveness concerns" (emphasis supplied).

(f) Provide me documentary evidence that substantiates the claim in the NAVPERS 1070/613 you issued that Comirnaty® is simply the name the Pfizer-BioNTech COVID-19 Vaccine will be "marketed as," and that the products COVID-19 Vaccine, mRNA and Pfizer-BioNTech COVID-19 Vaccine are not, instead, two distinct products in two distinct marketing categories, biologics license application approved and EUA, respectively.

(g) Provide me documentary evidence substantiating **verbatim** the claim in your 10 November 2021 order incorporating by reference the assertion of reference (c), that FDA guidance states that health care providers "*should 'use doses distributed under the EUA to administer the vaccination series as if the doses were the licensed vaccine'*" (emphasis supplied), when the only purported FDA "guidance" to that effect that exists is an FDA website stating that such personnel **can** use EUA doses in that capacity.<sup>4</sup>

(h) Provide me documentary evidence substantiating **verbatim** the claim in your 10 November 2021 order incorporating by reference the assertion of reference (e), that on 23 August 2021 "FDA revised the Emergency Use Authorization (EUA) for the Pfizer-BioNTech COVID-19 vaccine for individuals *12-15 years of age*" (emphasis supplied), rather than reissuing the letter of authorization providing for the "authorization [to] remain[] in place with respect to that product for the previously-authorized indication and uses (i.e., for use to prevent COVID-19 in individuals 12 years of age **and older**)","<sup>5</sup>

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<sup>4</sup> <https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna> (accessed 23 Nov 21).

<sup>5</sup> FDA Letter of Authorization to Pfizer Inc. of 23 August 2021, p. 12 (emphasis supplied).

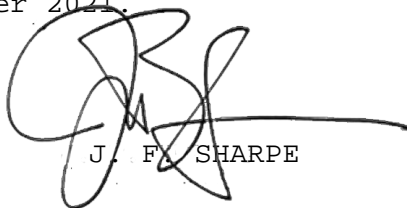
Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

which age range **overlaps** rather than excludes the range of 16 years of age and older for which Comirnaty® is licensed.

(9) Take investigative and corrective action to remedy the violation of law and regulation alluded to in enclosures (6) and (9) as necessary to protect me from improper pressure and unlawful orders by your personal staff that I consent to vaccination with a non fully FDA-licensed product and thereby personally acquiesce or improperly provide the appearance of acquiescing in behavior by MTF staff and leadership that perpetuates the ongoing statutory and regulatory violations detailed in the enclosures.

4. Thank you for your attention to this matter, which is very respectfully submitted.

5. Pursuant to Section 1746 of Title 28 of the United States Code, I certify under penalty of perjury that the foregoing is true and correct. Executed on 23 November 2021.



J. F. SHARPE

## Sharpe, John F CDR USN DMA MS (USA)

---

**From:** Sharpe, John F CDR USN DMA MS (USA)  
**Sent:** Thursday, October 28, 2021 5:46 PM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) CIV USN (USA);  
(b) (6) CPO USN (USA)  
**Subject:** question about the COVID vaccine  
**Importance:** High

CAPT,

I've got a question for you and the team relating to the required COVID vaccine which I'm hoping you can help me with.

Since receiving the Page 13 from RDML Brown on October 25 outlining the vaccine requirements, I have been reviewing the relevant directives in some detail, and I have been, quite honestly, reflecting on your comments from our conversation on October 15 exhorting me to think twice about putting in for a religious exemption and reminding me about the adverse consequences that could possibly transpire as a result of going down that road.

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Thanks in advance,

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CDR John F. Sharpe, USN, APR+M  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity

6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

## Sharpe, John F CDR USN DMA MS (USA)

---

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Sent:** Friday, October 29, 2021 7:18 AM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA);  
(b) (6) CPO USN (USA)  
**Subject:** RE: question about the COVID vaccine

John --

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Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy.mil  
703-695-0911 (office)  
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(b) (6) .civ@us.navy.mil> (b) (6) CPO USN (USA)  
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**Subject:** question about the COVID vaccine  
**Importance:** High

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enclosure (2)

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(b) (6) mil@us.navy.mil> (b) (6) CIV USN (USA)  
(b) (6) civ@us.navy.mil> (b) (6) CPO USN (USA)  
(b) (6) mil@us.navy.mil>  
**Subject:** Re: question about the COVID vaccine

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USN (USA); (b) (6) CPO USN (USA)  
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Subject: question about the COVID vaccine

Importance: High

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**Sent:** Friday, October 29, 2021 4:35 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA);  
(b) (6) CPO USN (USA)  
**Subject:** RE: question about the COVID vaccine

John --

I want to correct one thing I said. Any of the currently in-use vaccines (Pfizer/Comirnaty, Moderna, and J&J) satisfy the COVID vaccine requirement and as I previously noted, you can get any of those at the location of your choice. If you are only willing to accept the Pfizer/Cormirnaty vaccine, which is the only one as yet fully licensed, that is available at the Pentagon. We are checking on your building access and can get you in at visitor control, just let us know what day you want to come. I recommend you make an appointment with your PCM for guidance on other locations where you can receive the shot if you don't want to come here and get it, but I recommend you just come here.

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## Sharpe, John F CDR USN DMA MS (USA)

---

**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) mil@us.navy.mil>  
**Sent:** Tuesday, November 2, 2021 10:04 AM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA)  
**Subject:** FW: COVID VACCINE DOCUMENTS  
**Attachments:** BUMED Memo of 3 Sep 21 Vaccine Interchangability.pdf; ASD (HA) - COVID-19 Vaccination Memo - 14 Sep 21.pdf; ASN M&RA Memo of 8 Sep 21.pdf

John –

In your previous notes you'd expressed interest in ensuring you received the fully licensed COVID vaccine. While any of the vaccines currently in use in the USA will fulfill the DoD requirement to be vaccinated, the above guidance relates to which vaccines meet the "fully licensed" marker in which you expressed interest. As previously noted, you can check with your PCM or use Tricare Online to get the vaccine scheduled at the Pentagon or other MTF. There are deadlines that are coming up fast beyond our local control so please treat this as a top priority for action. FYSA.

V/r,

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enclosure (5)

## Sharpe, John F CDR USN DMA MS (USA)

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**From:** Sharpe, John F CDR USN DMA MS (USA)  
**Sent:** Tuesday, November 9, 2021 12:22 PM  
**To:** (b) (6) CPO USN (USA)  
**Cc:** (b) (6) CIV USN (USA); (b) (6) CDR USN CHINFO WASHINGTON DC (USA);  
(b) (6) @navy.mil (b) (6) @us.navy.mil  
**Subject:** Communication WRT COVID-19 vaccination, Page 13, etc. per (inter alia) 10 USC 1034  
**Importance:** High

YNC et al:

This is respectfully submitted for RDML Brown's consideration in reply to last Thursday's communication which you forwarded from him. It serves as a reply as well to the emails to me from the Deputy, CAPT (b) (6), both from that same day and from yesterday afternoon. I appreciate your passing it on to both of them.

I apologize for the length of this email and the timing of its transmission, which is later than I had intended and hoped; the only justification I can offer is the seriousness of the matter that it addresses. I thank the Admiral in advance for taking the time to consider its contents.

As a threshold matter I would like to point out (though I hope it will prove unnecessary to have mentioned) that this reply also serves as a more general report constituting a reprisal-protected communication under 10 U.S.C. 1034(c)(2) and the 2014 NDAA Sec. 1709 and its implementing department and service regulations.

Since receiving on October 25 the correct Page 13, I've been diligently working to understand precisely the scope of the order it memorializes, based on its language, so that I can formulate a proper response to the Page 13 and course of action. My effort has included a thorough review of all relevant and readily accessible statutes, regulations, and administrative decisions and guidance from the DoD, DoN, DHA, and FDA.

I confess that, while I have made a lot of progress coming to understand the broad DoD-wide effort to vaccinate service members against COVID-19, I haven't made much progress coming to a clear understanding of what the Page 13 is ordering. I am not asserting any blanket unwillingness to sign the Page 13, or any unwillingness to comply with any lawful order; nor am I foreclosing the possibility of requesting an exemption from the scope of the order, once I fully understand what that is, via the religious accommodation process, if I believe that necessary. Not at all.

What I am saying is that I consider myself entitled, as a matter of basic due process and fundamental fairness, to fully understand the order memorialized on the Page 13 before initialing that I in fact understand it, and undertaking any further appropriate actions based on the actual and precise scope of that order. I believe this matter of mutual straightforwardness is both our right and our obligation, based on numerous, and obvious, sources, such as inter alia our Navy Core Values (which mandate observance of "an uncompromising code of integrity" and the "highest degree of moral character"), Title 10, U.S.C., which requires officers to display

“exemplary” conduct, and Navy Regulations, which require all service members to comply scrupulously with applicable laws, regulations, and lawful orders from superiors.

Moreover, my expectation of a full, clear, and precise understanding of the order in light of relevant legal authorities is a matter of cultural instinct, based on years of training not only as a professional communicator (a profession where words matter) but also as a DoE and DoN Certified Nuclear Engineer Officer. If that latter certification did anything, it taught me to read and re-read manuals, instructions, and regulations, to follow them to the letter, and to reasonably expect that others, without exception, do the same. It also taught me to safeguard the integrity of, and set an example for, our junior personnel, who rightly look up to more senior officers as models of good behavior.

On the submarine we used to remind our mechanics and electricians and reactor electronics technicians of how wrong it would be – on so many different levels – to record on reactor-maintenance paperwork a reading that would be “in specification,” if the actual reading was out of spec, just to avoid hassle, inconvenience, or worse. That circumstance – that we used to train our folks to not get into – is eerily similar to what’s happening today, where those same junior folks are being told to accept as “mandatory” a vaccine from a bottle that conspicuously says “Emergency Use Authorization” (EUA) and whose associated EUA from the FDA expressly says “All descriptive printed matter . . . clearly and conspicuously shall state that: This product has not been approved or licensed by FDA.” Can we reasonably expect that by creating a culture where junior personnel are trained to “look the other way” with regard to something as personal as accepting a vaccine that they are told by their leaders’ medical providers and attorneys is “fully licensed,” but whose actual regulatory paperwork declares is “not . . . approved or licensed,” we won’t be undermining the very honesty and integrity upon which the safety records of Navy Nuclear Power, Naval Aviation, and so many other potentially life-threatening career fields – and the lives of the professionals in those fields – depend? It seems unlikely.

So where I admit to being stumped by the Page 13 is its order explaining (correctly), with respect to the FDA product Comirnaty, that SECDEF has established that “[m]andatory vaccination can only use COVID-19 vaccines that receive full licensure from the FDA, in accordance with FDA-approved labeling and guidance,” and continuing to state (less correctly) that Navy medical providers are “authorized” to use doses of the Pfizer-BioNTech COVID-19 Vaccine “distributed under . . . [EUA] to administer mandatory vaccinations.” The ALNAV and NAVADMIN messages referenced in the Page 13 make the same initial observation – that mandatory vaccination will use fully licensed FDA vaccines, but they are silent when it comes to authorizing commanders or others to order mandatory vaccination of service members with non-fully-licensed products. On its face, the language of the Page 13 appears to contradict the explicit direction of the Secretaries of Defense and of the Navy and of the Chief of Naval Operations and to posit a logical contradiction – namely, that a biological product is authorized for emergency use and fully licensed at the same time (notwithstanding the language of Section 360bbb-3((b)(2)(A) of U.S. Code, Title 21, which incontrovertibly makes such a case impossible).

Since receiving the Page 13, I have also made the successful effort to obtain copies of the memoranda circulated by staff judge advocates and others involved in the Navy COVID-19 response that maintain that healthcare providers “can” use products previously distributed (i.e., prior to the 23 August 2021 licensure of Comirnaty) under EUA to administer mandatory vaccinations. One of the memoranda even goes so far, apparently, as to *direct* medical providers to use the EUA product (using terms such as “will” and “should” –

although with respect to the latter term, the cited authority [notwithstanding the fact that it is no more than a public-facing FDA web page for lay audiences] says “can” rather than “should,” regrettably suggesting that the author of the memo either knowingly or mistakenly [but in any case falsely] represented the FDA’s web-based statement).

The hang up I have with these memoranda, respectfully, is that they are not applicable to, insofar as they do not and cannot direct (per, e.g., Navy Regs Arts 1021, 1025), the actual service members who are to permit themselves to be vaccinated (because those service members are not the subordinates of the relevant healthcare officials, and the latter do not and arguably cannot order anyone to submit to vaccination with an EUA product; they only purport to permit one to be administered [seemingly, however, and slightly misleadingly, over the objection of a non-consenting recipient]). Alternatively, they flatly contradict the guidance promulgated by the officials who Title 10 of the U.S. Code affords *complete authority, direction, and control* over the DoD and the DoN. So to avoid construing the memoranda as contravening the express orders of SECDEF, SECNAV, and CNO, along with the large volume of statutory and regulatory law and FDA and DHA guidance that narrowly limit service vaccination requirements to those that can be accomplished with fully licensed FDA products, one is forced to conclude that, while healthcare providers “may” use EUA-products to accomplish vaccination of the force against COVID-19, they may only do so *with the consent of the vaccinee*, who retains an option to decline to be vaccinated with anything but a fully licensed FDA product, as indicated by applicable FDA labeling (which is, in turn, referenced and incorporated by both the SECDEF directive and the Page 13). I would be glad to provide, for your reference, copies of statutes, regulations, and FDA or other material that make this conclusion clear. (It may be useful to know in this connection, and just anecdotally, that vaccinations occurring at the Ft. Meade MTF, where I attempted to find the licensed vaccine last week, are providing paperwork to potential vaccinees informing them of their option to decline the very vaccine that the above-referenced memoranda suggest “will” be used for “mandatory” vaccination. As it happens, their forms are outdated by several months, but those that are most recent [DHA Form 207 v 15 {Oct. 21} and the FDA/Pfizer Fact Sheet for Healthcare Providers Administering Vaccine {29 Oct 21} convey the same information]).

Incidentally, and as further indication of my good-faith due diligence, I ran this issue past the OPNAV COVID CELL, but my effort merely produced copies of the aforementioned memoranda, the boilerplate Page 13, and an interesting albeit not wholly relevant discussion of the success of the polio vaccine and FDR’s medical history. I made the same effort, at a slightly earlier stage, to inform the Admiral’s SJA at OJAG (Code 13) of this legal issue; her response, like the COVID cell’s, was cordial and unhelpful; she offered no explanation as to the legality of an order that appears to mandate vaccination with an optional vaccine, and simply suggested I contact a defense lawyer.

With the foregoing in mind, I have been – also since the October 25 receipt of the Page 13, and upon completion of the research alluded to above – diligently and almost single-mindedly attempting to establish the reasonably local availability of Comirnaty. By way of another anecdote, I learned from the duty doctor at the Ft. Meade shot clinic (I can provide name and contact information if needed) that to his knowledge Comirnaty is not available, not in the DoD supply system, and not planned for manufacture in the foreseeable future. While this is only one data point, it is consistent with information available from authoritative sources such as NIH’s National Library of Medicine, the FDA’s National Drug Code Directory, FDA administrative decisions, and even our SJA’s internal bulletins. I have even enlisted support of colleagues similarly in search of the FDA-licensed product, and they too are coming up short (a negative report from Walter Reed being one of the most

recent). However, unless directed otherwise, I will continue personally to hit locations throughout the National Capital Region (NCR) in an effort to establish the availability of the vaccine product that SECDEF, SECNAV, and CNO have indicated is to be used for mandatory vaccination.

For the Admiral's further awareness, the added complication at this point is that the current position of the Executive Branch WRT the interchangeability of the Pfizer vaccine and Comirnaty is no longer what it was when the above-mentioned memoranda were issued in early September (with, oddly, the lowest authority acting first and the highest authority acting last via an undated document). The current position, based on very recent information from the relevant officials at FDA and DHA (and even from DOJ), is that only certain lots of the Pfizer vaccine are susceptible of being administered to service members without affording them the option to decline to receive it. This is claimed on the basis of the certain lots meeting the manufacturing and other requirements of the fully licensed product. (The problem with this is, *inter alia*, that they are still labeled as "EUA"; the most current paperwork being distributed by MTFs from DHA references the FDA fact sheets that still afford service members the "option to decline"; the FDA authorization itself confirms the obligation of memorializing in FDA labeling the requirement of healthcare providers to inform vaccine recipients that they have "the option to accept or refuse," and, finally, SECDEF's order still explicitly mandates compliance with FDA labeling and guidance.) In any event, to run this option down, just to see if compliance with the more narrow (albeit questionable) requirement is even possible, I have contacted DHA officials in search of the licensed lots. DHA passed my inquiry on to BUMED personnel, whom I have not heard from. I have also personally sought out the allegedly license-compliant vaccine lots, but Ft. Meade has not had them for some time. But I will continue the effort in conjunction with my search around the NCR for Comirnaty.

As I already indicated to the Deputy, I recognize that "on paper" there are complications with respect to my becoming "fully vaccinated" on the ostensible timeline set forth by the relevant NAVADMIN messages. But these complications stem most glaringly from the product-availability issue noted above (making it in fact impossible even for those who would opt not to seek an exemption to become fully vaccinated), as well as from the fact that I received the first personally addressed vaccination order after the date on which I would have had to initiate vaccination with the fully licensed product, in the event I had at that time been certain I did not wish to seek an exemption. Adding to the chronological confusion is the fact that the Page 13 which I am being asked to sign indicates that I have 10 days from the date of my signature thereupon to request an administrative exemption from the order, whatever its scope. And the most recent email (from Thursday) advising me of the possibility of a Special Fitness Report indicates that such a report will be issued if I "refuse the vaccine" and do not have a pending exemption request 30 days from the date of "this" order. "This" can only refer to the order from last Thursday – and not an order that came from SECDEF, SECNAV, or CNO on, respectively 23, 30, and 31 August – as we are well past 30 days from those dates.

As far as my outstanding action items:

a. Page 13. As explained, and in summary, I need to understand the scope of the order it appears to be giving – namely, to voluntarily accept vaccination with a non-fully-FDA-licensed product, contrary to SECDEF/SECNAV/CNO direction, and to FDA labeling and guidance:

1) Does the order direct me to present myself for vaccination with a not-fully licensed EUA product?

2) If so, is it the Admiral's intention that by signing the Page 13 I waive my right to decline receipt of such a product?

3) If not, and given that the fully licensed FDA product is not available, how is the order to be complied with?

b. Timing and intent to submit any religious accommodation request.

1) As detailed above, it is not practically possible for me to meet time requirements for full vaccination with the fully licensed vaccine, due to its unavailability (and even the unavailability of the allegedly license-compliant, EUA-labeled lot numbers), and due to the length of time it would take to become fully vaccinated even were the fully licensed product available at this point. Deputy (b) (6) direction from yesterday to "go to an MTF [and] get vaccinated" appears not to appreciate the relevant timelines.

2) As noted in an email I sent him some time ago, NAVADMIN 190/21 requires that commanders provide service members with "information and guidance regarding vaccine availability and administering locations." I requested this information nearly 2 weeks ago and have yet to receive it as regards any product, let alone with respect to the fully licensed FDA product (which, again, is the only one that can be made mandatory per the express direction of SECDEF, SECNAV, and CNO). DCI (b) (6) as recently as yesterday said "go to a MTF, get vaccinated, and provide us the documentation," but there is no indication in his message where a fully licensed (and therefore mandatory) vaccine product can be found. Once again, therefore, and a third time: I request that CNO's direction be followed, and that I be provided with precise vaccine availability and treatment location information with respect to the vaccine that can be made mandatory.

3) As noted above, it is not clear if the Admiral's order is directing that I allow myself to be vaccinated with an EUA product or with a fully licensed product. If the former, there is no need to submit an accommodation request, as, respectfully, there is no lawful order from which I would need to request a waiver. If the latter, any relevant accommodation request could arguably (and quickly) be submitted when the means of complying with the order materialize (in other words, once someone tells me, as the NAVADMIN unequivocally requires, that the licensed product is available and where it can be had). Accommodation requests are, ultimately, simply an administrative means of memorializing protection for the exercise of Constitutionally (and statutorily) protected First-Amendment rights. DoD and DoN regulations governing the accommodation process establish that the process begins on the initiative of the service member. They, naturally, articulate no deadlines for the submission of a request that is inherently discretionary, and they impose no requirement upon a service member that he anticipate and request exemption from a future policy or prematurely request waiver of a policy that is either illegal or cannot be implemented. And a close and careful reading, in any event, of the 24 August SECDEF memorandum and the relevant NAVADMINs yields the result that to avoid being classified as a "vaccine refuser" a service member would only need to have submitted an accommodation request in time for it to be "pending" on 28 November. Finally, neither the Constitution, nor statute, nor regulation would permit a federal agency to refuse to consider an accommodation request on the basis of its not being made prior to an arbitrarily established deadline. (The only case in which the timing of an accommodation request would affect its validity is where the request's timing is indicative of insincerity, e.g., the case of an accused who submits an accommodation request as [effectively] a First-Amendment defense to a charge but where the burden to the free exercise of religion is only alleged after charges are proffered or punishment is

imposed. In this case, from the moment DCI (b) (6) queried my vaccination status on 15 October, I signaled my religious-based concerns as well as the likelihood or at least possibility of my filing an accommodation request.)

4) In view of the above, I am happy to confirm hereby my intention to submit an accommodation request if and when the SECDEF/SECNAV/CNO directives for mandatory vaccination with a fully licensed product consistent with FDA labeling and guidance can and will be properly implemented, on the basis of both a legally correct interpretation of those directives and the availability of the relevant product. I believe that to request an accommodation for waiver of a policy that, as it stands, cannot be implemented without being interpreted and effectuated in a manner plainly contrary to law, would be to acquiesce in and condone the ongoing and apparently systemic illegality of the current approach to implementing the vaccination directive – something highly improper for a commissioned officer of the armed forces of the United States and contrary to the authorities summarized elsewhere herein, which require his conduct to be at all times beyond reproach and, most especially, an example to junior personnel of integrity, respectful candor, and moral courage. This seems especially clear where the orders of the subordinates to SECDEF/SECNAV/CNO make no apparent effort to restrict the orders' scope to the terms of the DoD and DoN leadership direction, but instead boldly and blatantly depart from those terms and purport to impose that departure on department personnel via an end-run through the healthcare provider community. There is not only no room in government for such regrettable conduct; in the case of affected or involved federal officers, to include myself, there is no room for allowing even the "appearance" – the term from the Executive Branch Standards of Ethical Conduct, 5 CFR 2635.101(b)(14)) – to be created of acquiescence in or to that conduct. Those Standards, rather, unequivocally and without exception require us to place loyalty to law and maintenance of public confidence in the integrity of the Government above all personal considerations (at 2635.101(a)).

Please assure the Admiral that it is not my intention to be uncooperative or insubordinate. Quite the contrary. I wish most sincerely to bring to his attention, first, the irregularity and apparent illegality of the order he delivered for me to present myself for vaccination with a non-fully licensed product (which I have no doubt he issued with the best of intentions, based on an incorrect "boilerplate form" drafted by attorneys whose work was, to say the least, regrettably unprofessional) and, second, the corresponding concern it raises with respect to the numerous members of the naval service who may (likely) have been vaccinated against their will on the basis of memoranda (backed, again, by extremely poor legal advice) that contradict the straightforward commands of DoD and DoN leadership – in light of which my personal circumstance simply serves to illustrate and may hopefully be an occasion for the remedying of the wider and apparently systemic problem with the DoN's approach to COVID-19 vaccinations.

The implications of that systemic problem are not pleasant to contemplate. At its worst, they include attorney misconduct, a good deal of misrepresentation, violation of Sailors' Fifth-Amendment right to substantive due process, and behavior on the part of some that is hard to see as anything but criminal under both military and civil codes.

I also have every hope and confidence that, with the Admiral now being made aware of the irregularities with the mode in which DoN subordinates have implemented SECDEF's directive, he will look into the matter himself, bring it to the attention of proper authority, and put a stop to any further violation of that directive insofar as he is able. This would help to avoid any further action, such as that contemplated by Navy



Regulations Art. 1137 and SECNAVINST 5370.7E, as well as eliminate the possibility of his having any liability in this matter, whether in an official or personal capacity.

It is indeed with a somewhat heavy heart that I bring these matters to his attention, as I know that contemplating them is not appealing. But I do so in an effort to uphold the best traditions of the Naval Service, to comply with the exemplary conduct standard imposed upon me and all senior officers by Title 10, Navy Regulations, SECNAVINST 5350.15, and naval tradition, and to fulfill my duty under our Core Values – which, aside from the points already mentioned, oblige me (and all of us) to be honest and truthful, deliver bad news forthrightly, fulfill my legal responsibilities, and act in the best interest of the Department of the Navy without regard to personal consequences.

And, ultimately, I raise the issues herein detailed as a matter of the oath of office I (and all service members) have professed to uphold the Constitution. The Fifth Amendment to that Constitution protects American citizens from all deprivation of substantive due process, a legal concept that among other things protects one from a violation of his or her bodily integrity occasioned by the non-consensual administration of medical treatment. Navy Regulations Art. 1144, admittedly, requires service members to permit vaccination as prescribed by proper authority, but, as VADM Merz has himself pointed out quite recently, service members are not forcibly vaccinated by way of physical coercion or constraint; instead, they are ordered *to permit themselves to be vaccinated* – in short, they are *ordered to consent*, and, *to comply with the order, they consent*. So there is always a layer or level of consent to the violation of bodily integrity that a vaccination represents, even in a case where providing such consent is legally obligatory. Here, however, where authority has not properly prescribed vaccination with the product actually being administered, and cannot do so lawfully, service members’ “consent” to receipt of that product is obtained by an erroneous representation that such receipt is legally obligatory. As a result, the consent is fraudulently obtained, and void, and the consequent violation of service members’ bodily integrity rendered unquestionably violative of their rights under the Fifth Amendment. And that violation is likewise neither reversible, nor remediable, nor compensable, because, having been done, it cannot be undone. The Constitution does not permit this course of conduct, nor can anyone who took an oath to uphold it.

In closing, and on a couple of merely administrative notes, I would also ask you to request the Admiral to remind his Deputy to comply scrupulously with the requirements of OPNAVINST 5354.1G with respect to hostile or abusive conduct motivated by religious bias. I make no complaint (informal or otherwise) at this time; I merely note that a repeat of his October 15 exhortation – communicating, in effect, why it would be a “bad idea” to request a religious accommodation, and how such a course could lead (inexplicably?) to administrative separation, loss of benefits, and other adverse actions or penalties – might trigger one.

I am also aware of the reporting timelines imposed upon the Admiral by NAVADMIN 249/21, and I recommend that you report my vaccination status as either (5) (unvaccinated, pending religious accommodation exception) or (7) (unvaccinated, has not had access to vaccination) – on the basis of, in the first case, my stated intention to submit an accommodation request in the event the occasion for doing so arises, as detailed above, or, in the second, the non-availability of the fully FDA licensed vaccine product. Alternatively, you might recommend that OPNAV create a category (8) for the unvaccinated who reserve the right to submit a religious accommodation request if or when the DoN obtains stock of the product needed to lawfully implement COVID vaccination policy. In addition, please feel free to include this message with the vaccination status report that is

due to the OPNAV COVID Cell in the event it would be useful in explaining the particulars of my status. I will provide it to them next week or the following for incorporation into the results of their COVID-19 vaccination data call. I will also provide a copy to the relevant OJAG codes in an attempt to help them avoid any undesirable consequences that might otherwise arise under JAGINST 5803.1E.

I thank the Admiral sincerely and most warmly for his careful consideration of the foregoing, and look forward to his reply to the questions listed above under subparagraph “a” relating to the Page 13.

Very respectfully submitted,

**CDR John F. Sharpe, USN, APR+M**

Operations Officer

Mission Support Line of Business

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6700 Taylor Avenue

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## **Sharpe, John F CDR USN DMA MS (USA)**

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**From:** Sharpe, John F CDR USN DMA MS (USA)  
**Sent:** Tuesday, November 9, 2021 12:39 PM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**Subject:** Re: COVID-19 VACCINATION REPORTING REQUIREMENT

CAPT:

I just provided a lengthy status report (serving as a full reply to your message below) to YNC for transmission to the Admiral and yourself. I copied the EA on the assumption that she or YNC could print or forward, given the length, in a format most convient for you and the boss.

A few quick replies to your email below are inserted between your points (which I put in bold).

**we have been directed to report the COVID status of all hands as it stands on 15 Nov.**

NAVADMIN 249/21 says no earlier than 15 Nov and no later than 19 Nov.

**I need you to request a medical or religious exemption immediately**

I address this point in my longer email, transmitted a few minutes ago.

**go to a MTF, get vaccinated, and provide us the documentation**

I need you pursuant to NAVADMIN 190/21 to tell me where the fully FDA-licensed vaccine is being administered pursuant to FDA labeling and guidance.

**If you do not intend to request a waiver or get vaccinated by 14 Nov., so that we can meet the 15 Nov. reporting requirement, please clearly state your refusal to receive the COVID vaccine.**

I will not state my refusal to receive the COVID vaccine because I have not refused to get a fully FDA-licensed vaccine. I would ask you to clearly state whether you are ordering me to receive an unlicensed COVID vaccine. I would be happy to provide a clear response to that statement. In its absence, all we can say is that I have been ordered to receive vaccination with a product that does not exist, and I am waiting to be told when the product comes into existence and is available. In such a case the concept of "refusal" is wholly and utterly inapplicable.

Very respectfully,

CDR John F. Sharpe, USN, APR+M  
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## Sharpe, John F CDR USN DMA MS (USA)

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Sent:** Wednesday, November 10, 2021 11:00 AM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CAPT USN OSD PA (USA); (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV DMA MS (USA)  
**Subject:** RE: Direction from the CHINFO

CDR Sharpe –

You are ordered to report to CHINFO spaces Monday so the Chief of Information can provide you with information and direction. The order to report to CHINFO spaces at the Pentagon Monday as your duty location does not, at the current time, affect your TAD status beyond Monday.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

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**From:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Sent:** Wednesday, November 10, 2021 7:58 AM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Cc:** (b) (6) CAPT USN OSD PA (USA) (b) (6) mil@mail.mil>; (b) (6) CDR USN CHINFO WASHINGTON DC (USA) <(b) (6) .mil@us.navy.mil>; (b) (6) CIV DMA MS (USA) (b) (6) .civ@mail.mil>  
**Subject:** RE: Direction from the CHINFO

CAPT:

Wilco. Two follow-up questions:

1. So I can be prepared for the tasking (or whatever) this involves, please let me know why I am reporting to CHINFO spaces on Monday.
2. Give my effectively permanent TAD to DMA, does this summons affect that status at all? (Understand that permanent TAD is somewhat contradictory, but that's basically what it is.)

Additionally, just FYI, insofar as my status at DMA is in virtue of a TAD assignment, I do not report to CAPT (b) (6) in his capacity as head of the Navy Element at DMA for personnel accounting or supervisory/subordinate purposes. My day to day supervisor is (b) (6) (GS-15), copied above. Naturally I am more than ready and willing to work with CAPT (b) (6) in any way that you might direct. I have already touched base with him, had a rather lengthy conversation with him yesterday, and shared the relevant correspondence to bring him up to speed.

v/r

**CDR John F. Sharpe, USN, APR+M**

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Sent:** Tuesday, November 9, 2021 4:47 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA) <john.f.sharpe2.mil@mail.mil>  
**Cc:** (b) (6) CAPT USN OSD PA (USA) (b) (6) .mil@mail.mil> (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Subject:** Direction from the CHINFO

CDR Sharpe –

You are hereby ordered to report in person to the Office of the Chief of Information (CHINFO), Room 4B463 in the Pentagon, no later than 0800, Monday, 15 November 2021. This will be your official duty location for the day or until dismissed. Uniform is service khaki. I have already communicated this requirement to CAPT (b) (6) in his capacity as commander of the DMA Navy Detachment SEPCOR to ensure compliance with this order.

V/r,

(b) (6)

Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) .mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

15 Nov 21

From: CDR John F. Sharpe, USN (ret.)  
To: Chief of Information (CHINFO)  
Via: Deputy Chief of Information

**VIA HAND DELIVERY TO CDR (b) (6), USN, EXECUTIVE ASSISTANT TO THE CHINFO**

Subj: YOUR LTR OF 10 NOVEMBER 2021

Ref: (a) My e-mail ltr of 9 Nov 21  
(b) YNC (b) (6) e-mail ltr of 9 Nov 21  
(c) 10 U.S.C. § 1034  
(d) 21 U.S.C. § 360bbb-3  
(e) 42 U.S.C. § 262  
(f) SECDEF Memo of 24 August 2021, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members*  
(g) SECNAV WASHINGTON DC 302126Z Aug 21 (ALNAV 026/21)  
(h) CNO WASHINGTON DC 311913Z Aug 21 (NAVADMIN 190/21)  
(i) Navy Regulations Art. 1144  
(j) Title 10, U.S. Code, Chapter 47, Subchapter X  
(k) Title 18, U.S. Code  
(l) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(m) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(n) Your ltr (unserialized) of 10 Nov 21  
(o) SECNAV M-5216.5  
(p) 10 U.S.C. § 1107a  
(q) DoD Instruction 1300.17 of 1 September 2020  
(r) SECNAVINST 1730.8B  
(s) BUPERSINST 1730.11A  
(t) NAVPERS 15560D  
(u) BUMEDINST 6230.15B  
(v) 10 U.S.C. § 8167  
(w) Navy Regulations Arts. 1130 and 1132  
(x) SECNAVINST 5350.15D  
(y) SECNAVINST 5215.1E  
(z) Navy Regulations Art. 1137  
(aa) CNO WASHINGTON DC 011621Z Nov 21 (NAVADMIN 249/21)

Encl: (1) DHA Form 207 (Oct. 21)  
(2) Vaccine Information Fact Sheet pp 6-7 (29 Oct 21)  
(3) Vaccine Information Fact Sheet pp 7-9 (29 Oct 21)

1. On 9 November 2021, I e-mailed reference (a) to your Chief Yeoman and Assistant Chief of Information for Administration (OI-1), for your review. It is a detailed outline of my concerns with respect to the legality and propriety of way in which the Departments of Defense (DoD) and of the Navy (DoN) are currently implementing the coronavirus disease (COVID-19) vaccination program. The email was acknowledged on

**enclosure (9)**

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the same day (reference (b)). *Inter alia* my email was a plea<sup>1</sup> for your help to inquire into, and halt, if appropriate, the facially (and quite obviously) illegal mandatory vaccinations of service members with a vaccine product (namely the Pfizer-BioNTech COVID-19 Vaccine, hereinafter the "Pfizer EUA Vaccine") which has been introduced into interstate commerce only pursuant to reference (d) under an Emergency Use Authorization (EUA) and which is not fully licensed under reference (e). Aside from directly violating references (f) through (h), each of which unequivocally requires service members to present themselves pursuant to reference (i) for vaccination *only* with a product fully licensed by the Food and Drug Administration (FDA), the current approach to implementation of the DoD vaccination program violates a host of statutes and regulations,<sup>2</sup> the FDA labeling (with which reference (f) *expressly mandates compliance*) attached to the Pfizer EUA Vaccine pursuant to federal regulations,<sup>3</sup> and service members' rights under the Fifth Amendment to the United States Constitution to be free from violations of their bodily integrity attempted or consummated without due process of law.<sup>4</sup> The approach that DoN has taken also risks implicating program administrators - who are effectively "forced" by the incorrect and improper insistence of the Assistant Secretary of Defense (Health Affairs) (ASD), the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN), and the Surgeon General of the Navy (SGON),<sup>5</sup> contrary to all available evidence

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<sup>1</sup> Incidentally protected under reference (c) and its implementing regulations.

<sup>2</sup> These include, as noted, references (d) through (i) along with DoDInst 6200.02, *Application of Food and Drug Administration (FDA) Rules to Department of Defense Force Health Protection Programs*; DHA-IPM 20-004, *Department of Defense (DoD) Coronavirus Disease 2019 (COVID-19) Vaccination Program Implementation*; BUMEDINST 6230.15B, *Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases*.

<sup>3</sup> Pursuant *inter alia* to 21 CFR Parts 601 Subpart A and 610 Subpart G.

<sup>4</sup> This is known as "substantive due process." As Judge Sullivan wrote for the United States Federal District Court for the District of Columbia during the last time the DoD embarked on an illegal vaccination program, "[T]he right to bodily integrity and the importance of complying with legal requirements . . . are among the highest public policy concerns one could articulate." *Doe v. Rumsfeld*, 297 F.Supp.2d 119, 134 (D.D.C. 2003); *see also Schmerber v. California*, 384 U.S. 757, 772 (1966) ("The integrity of an individual's person is a cherished value of our society"); *Washington v. Harper*, 494 U.S. 210, 229 (1990) (observing that the "injection of medication into a nonconsenting person's body represents a substantial interference with that person's liberty").

<sup>5</sup> As reference (a) noted, an undated memorandum from the ASD, and memoranda from ASN and SGON (respectively from 8 and 3 Sep 21) purport to authorize DoD or DoN medical providers to administer mandatory vaccination with the Pfizer Vaccine on the grounds of its being "interchangeable" with Comirnaty®. Aside from blatantly contradicting references (f) through (h), these memoranda *inter alia* 1) do not constitute orders to the service members who are directed to submit to vaccination; they 2) are permissive rather than precatory (except for ASD's memo which appears at best contradictory; it says that medical providers "will" use the Pfizer Vaccine for mandatory vaccinations "in accordance with" reference (f), but reference (f) expressly bars ASD's directed approach); 3) they alter nothing, even by their own terms, with respect to a service member's option to decline to receive the Pfizer Vaccine as its FDA-approved labeling; and 4) they lack reference to any authoritative FDA regulation or administrative finding that authorizes the permission that the memoranda purport to grant to medical personnel - rather, the SGON references *no authority whatsoever*, ASN references a press release, and ASD references an answer to a "Q and A" posted on FDA's website. Neither of these two authorities have any legal authority whatsoever, nor, quite frankly, does FDA (for obvious reasons) represent them as such.

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and current information,<sup>6</sup> upon the legal "interchangeability" of the Pfizer EUA Vaccine with the fully FDA-licensed product (referred to as "COVID-19 Vaccine, mRNA," tradename Comirnaty®) - in serious violations of references (j)<sup>7</sup> and (k).<sup>8</sup> Likewise, those who promulgate orders representing that the violation of references (f) through (h) is somehow authorized by ASD, ASN, and SGON are arguably implicated in violations of the provisions of references (j) and (k) pertaining to false official statements.<sup>9</sup>

2. In response to my plea for help, reference (l) cancelled my temporary additional duty (TAD) at Defense Media Activity (DMA), Ft. Meade, Md., for one day, effective 0800 15 November 2021. A subsequent email, reference (m), clarified in response to my query that the purpose of the suspension of my TAD was so that you could provide "information and direction."

3. As ordered, I reported to your spaces in person at 0800 today to find that you are currently away from the office for a week of temporary duty. I was instead summoned to a meeting with your Deputy Chief of Information, CAPT (b) (6), USN, MCCM (b) (6), (b) (6), your Senior Enlisted Advisor, and CDR (b) (6), USN, your Executive Assistant. During the meeting I was presented with reference (n). Beyond the contents of reference (n), I was presented with no additional information or direction.

4. Reference (n) orders me to "receive an initial dose of the Food and Drug Administration (FDA)-approved Comirnaty® or FDA-authorized Pfizer-bioNTech COVID-19 [V]accine from DiLorenzo Health Clinic by 15 November 2021"<sup>10</sup> and to "receive the second dose of the same vaccine by 30 November 2021." Reference (n) also directs me to request a religious accommodation, if that is my intention, no later than today, 15 November 2021. Finally, it includes a pre-written endorsement at the bottom of page 2, drafted over my signature block, which I was ordered to sign.

5. Reference (o) provides that an endorsement is used only when a "via" addressee either redirects or transmits a standard Navy letter

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<sup>6</sup> As reference (a) also alluded to, proceedings, for example, in *Doe v. Austin*, No. 3:21-cv-1211-AW-HTC (N.D. Fla Oct. 6, 2021), have documented both FDA's and DoD's abandonment of the claim that the Pfizer Vaccine is universally interchangeable with Comirnaty®. A Congressional Research Service (CRS) report, moreover, points out without controversy that although "[t]he Pfizer [Vaccine] has the same formulation as Comirnaty[, it] is legally distinct and can be manufactured, marketed, distributed, and administered only pursuant to the [Emergency Use Authorization (EUA)] . . . . If FDA had revoked the EUA when it approved the Comirnaty [Biologics License Application], the remaining Pfizer-BioNTech vaccine doses would have been unauthorized and unable to be used." CRS, "FDA Approval of the Pfizer-BioNTech COVID-19 Vaccine: Frequently Asked Questions," CRS Report R46913, Sep.29, 2021, at 5 (emphasis added).

<sup>7</sup> These likely include violations under 10 U.S.C. §§ 892, 893, 928, 933, and 934.

<sup>8</sup> *Inter alia* arguable including crimes under reference (k) §§ 241 and 242.

<sup>9</sup> See 10 U.S.C. § 907 and 18 U.S.C. §1001.

<sup>10</sup> CAPT (b) (6) informed me during the meeting that a 1000 appointment had been made for me at DiLorenzo at the Pentagon.



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through the chain of command; it is not used to reply.<sup>11</sup> Because reference (n)'s pre-prepared endorsement is therefore improper, I decline to sign it. As your letter requests, however, I hereby acknowledge having received it today.

6. As noted in reference (a) and further discussed herein, the portion of your order directing me to receive an initial dose of the Pfizer EUA Vaccine is unlawful because *inter alia* it contradicts the lawful general orders of the Secretaries of Defense and of the Navy and, in addition or in the alternative, in the absence of a Presidential waiver under reference (p), it contravenes reference (d) as well as applicable regulations and authoritative FDA labeling.<sup>12</sup> As the *Manual for Courts-Martial* (MCM) notes, an order "must not conflict with the statutory or constitutional rights of the person receiving the order."<sup>13</sup> Moreover, given the weight and quantity of statutory and regulatory provisions clearly affording service members a right to decline administration of a product admitted into interstate commerce under EUA, the inference of lawfulness of your order, *contra* your letter ¶ 3, arguably does not attach.<sup>14</sup> Finally, in view of the express language of references (f) through (h), your order is *ultra vires* and for that reason also unlawful.<sup>15</sup>

7. In an attempt to comply with the portion of your order directing me to receive an initial dose of the FDA-approved Comirnaty®, I kept the 1000 appointment CAPT (b) (6) made for me at DiLorenzo. What transpired is as follows.

a. I received from an intake person at the "front desk" of the COVID vaccination area in the Pentagon Library a copy of DHA Form 207 (v 15, dated October 2020). *Inter alia* the form notes in block 6, entitled "ACKNOWLEDGEMENT," that "I have read or had explained to me the information in the Coronavirus Vaccine Emergency Use Authorization (EUA) Fact Sheet or the Vaccine Information Fact Sheet for COMIRNATY/Pfizer-BioNTech COVID-19 Vaccine." Block 6a and 6b afford a place to sign and date the form making said acknowledgement. A copy of the form is at enclosure (1).

b. A Navy enlisted member (presumably a Corpsman, last name (b) (6)) reviewed my form and guided me to sign and date blocks 6a and 6b. I pointed out to her that (as a good "Nuke") it would be improper for me to sign and date the acknowledgment since no one had provided me the relevant fact sheet or explained the information it contained.

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<sup>11</sup> Reference (o) ¶ 9-1 ("Do not use an endorsement to reply to a routine letter").

<sup>12</sup> See note 2 *supra*.

<sup>13</sup> *Id.*, Part IV ¶ 16c(2) (a) (v).

<sup>14</sup> See MCM Part IV 16c(2) (a) (i) ("An order requiring the performance of a military duty or act may be inferred to be lawful, and it is disobeyed at the peril of the subordinate. This inference does not apply to a patently illegal order").

<sup>15</sup> Given the express provision of references (f) through (h) mandating *only* that service members receive a fully FDA-licensed vaccine consistent with FDA labeling, your order exceeds the authority permitted you by the references. See MCM Part IV ¶ 16c(2) (a) (iii) ("The commissioned officer issuing the order must have authority to give such an order").

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She indicated that the full fact sheet was unavailable, but provided me a copy of pages 5 and 6 of a form dated 29 October 2021 (enclosure (2)). I recognized the excerpt as coming from the "VACCINE INFORMATION FACT SHEET FOR RECIPIENTS AND CAREGIVERS ABOUT COMIRNATY (COVID-19 VACCINE, mRNA) AND THE PFIZER-BIONTECH COVID-19 VACCINE." I pointed out to her that the pages from the fact sheet that she provided contained the following language under a heading, "WHAT IF I DECIDE NOT TO GET COMIRNATY (COVID-19 VACCINE, mRNA) OR THE PFIZER-BIONTECH COVID-19 VACCINE)?: "Under the EUA, it is your choice to receive or not receive the vaccine."

c. Once I pointed out this information, I was directed to raise my concerns with a series of military personnel, to include a Navy Lieutenant, who directed me to the senior enlisted personnel supervising the vaccine administration operation at DiLorenzo, who included an Army Sergeant First Class (SFC) and HM1 (b) (6). I pointed out to the SFC that I was not given a full fact sheet, pursuant to the DHA Form 207 instructions. She indicated that the shot clinic did not have fact sheets in stock, but produced a set of papers (enclosure (3)) containing a QR code that, she said, permitted me to look them up on my own. I further stated to the SFC and HM1 that, in view of the language of the fact sheet, I was only willing to accept vaccination with Comirnaty®. They both indicated that they had none in stock, had never seen any, and were under the impression that none existed across the Defense Health Agency (DHA) logistics enterprise. Following our conversation, HM1 recommended that I speak with leadership at DiLorenzo and escorted me to the clinic proper.

d. Following HM1's introduction, I had a lengthy conversation with Dr. (b) (6), Director for Medical Services. I explained my concern to him that not only was I being pressured to accept as fully licensed a product that clearly is authorized for use only under EUA - which carries with it a right to decline - but that numerous service members who were vaccinated under the "mandatory" rubric since reference (f) was promulgated were, in effect, induced into consenting to such vaccination on the basis of a patent misrepresentation. Dr. (b) (6) indicated that he understood my position but was operating under guidance from ASD. I replied by offering my condolences that the medical establishment had been put in the position of "carrying the water" for the inexplicable and clearly improper approach taken throughout the DoD to COVID vaccinations, where, on the one side, service members are told that they only need submit to vaccination with a fully FDA-licensed product, and, on the other, medical personnel are told that they are "authorized" to administer a product authorized pursuant to EUA when members report for their "mandatory" vaccine. Dr. (b) (6) quite honorably, did not deny the conundrum or the awkwardness of being placed "in the middle."

e. During the course of my conversation with Dr. (b) (6), he also confirmed that Pfizer is not manufacturing Comirnaty® due to the over-

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supply of the Pfizer EUA Vaccine, and that no Comirnaty® is expected at any precise point in the future to arrive for introduction into the DHA supply system.

f. Following my conversation with Dr. (b) (6), I visited the Pentagon spaces of the Office of the Judge Advocate General (Code 13) to have a conversation about my concerns with CDR (b) (6), USN, Code 134 Branch Head. I explained to him the obvious contradiction between representations by Defense Health authorities that non-fully-FDA-licensed products can be made mandatory and the express language of references (f) through (h). I shared with him the fact that partial fact sheets being distributed at DiLorenzo memorialize service members' rights to decline administration of the Pfizer EUA Vaccine, even while their chain of command orders them to receive it. I reminded him of Navy ethics rules and our Core Values, which require all members to be straightforward and to treat written words as meaning what they say.<sup>16</sup> I had him read the express language of enclosure (2) - but he believed that the answer to the question "WHAT IF I DECIDE NOT TO GET . . . THE PFIZER [VACCINE]?" meant that a member could opt for a *different vaccine*. He pointedly refused to address the point, which I emphasized, that the vaccine being referred to in the statement, "Under the EUA, it is your choice to receive or not receive *the vaccine*" (emphasis added) is the vaccine referred to in the question - "WHAT IF I DECIDE NOT TO GET . . . THE PFIZER [VACCINE]?" Ultimately, the best he was able to offer was, "It's not my policy," to which I responded by reminding him that as an attorney he is an officer of the court, where his own conscience and sense of ethics should trump "policy" every time. Regrettably, I did not make a dent.

g. Following my conversation with CDR (b) (6), and on the basis of our conversation regarding current litigation - which, as noted in reference (a), has established that DoD takes the position, now, that Comirnaty® and the Pfizer EUA Vaccine are not interchangeable on the whole, but rather that *certain lots* of the latter are interchangeable with the former - I returned to DiLorenzo in search of the allegedly "license-compliant" lots of the vaccine. (I was hopeful that I would succeed, because CDR (b) (6) represented that the Navy had received 88,000 doses of the EUA product which allegedly comply with the approved Biologics License Application (BLA). I did ask him where I could find them; he said he had no idea.)

h. Upon arriving at DiLorenzo, I again consulted with HM1 (b) (6). He informed me that personnel were currently administering product from lot 301458A, which is not one of the lots that Pfizer claims is fully compliant with the BLA parameters. I provided him a copy of Pfizer's list of allegedly BLA-compliant lots, and he was only able to indicate that DiLorenzo previously had product from one of the

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<sup>16</sup> I even pointed out to him a display entitled, "United States Navy Ethos," in his corridor of the Pentagon, which reads *inter alia*: "Integrity is the foundation of our conduct."

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listed lots (FF2587), but that none was left. I inspected a depleted vial of product from lot FF2587 and confirmed that it remains labeled "For use under Emergency Use Authorization."

8. In summary, with respect to the lawful portion of your order regarding my reception of an initial dose of the Pfizer or Comirnaty® vaccine, I attempted to locate the legally approved product and was unable to do so. I confirmed simultaneously that current information from senior Pentagon healthcare officials suggests that the product is not being manufactured and is therefore not available in the DoD/DHA supply system. I also confirmed that no allegedly BLA-compliant lot of the Pfizer EUA Vaccine is available, though I strenuously deny that receipt of any such product can lawfully be made mandatory.

9. With respect to reference (n)'s requirement (at ¶ 2d) that I request a religious accommodation with regard to either the Pfizer or Comirnaty® vaccine no later than 15 November 2021, I respectfully decline, while reserving the right to do so at a later time if I believe that appropriate. As reference (a) notes, references (q) through (u) place no deadline<sup>17</sup> upon a service member's request for immunization exemption on the basis of religious accommodation; such a request is inherently a matter of the member's initiative and discretion. Moreover, a request at this juncture would be unripe and inappropriate, insofar as, with respect to the Pfizer EUA Vaccine, there is no lawful policy from which to be accommodated, and, with respect to the fully licensed Comirnaty®, there is no product available and, consequently, compliance with the policy is impossible. Finally, in view of the grave concerns I have articulated herein and at reference (a) with respect to the DoD and DoN's implementation of COVID vaccination policy, I believe it would be highly improper for me to use the religious accommodation process as some kind of "off-ramp" or excuse to "look the other way" when the problem I am facing - confronting a clearly unlawful order - has likely and arguably been confronted by hundreds if not thousands of my fellow service members since reference (f) was promulgated. In sum, and respectfully, when the Navy embarks on a legally defensible course for implementation of references (f) through (h), I will, if my conscience dictates, request an accommodation from such implementation under references (q) through (u). Until then, I will fulfill my oath of office and defend the Constitution of the United States,<sup>18</sup> as I have sworn multiple times to do, even in the admittedly unpleasant and unenviable situation where,

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<sup>17</sup> Moreover, as reference (q) properly points out, "Pursuant to the Free Exercise Clause of the First Amendment to the United States Constitution, Service members have the right to observe the tenets of their religion" (*id.* ¶ 1.2a). That right does not expire or its limitations period run by virtue of a service-member's failure to request an accommodation on an arbitrarily established deadline.

<sup>18</sup> As noted *supra*, at its worst, the administration of a vaccine distributed pursuant to EUA on the basis of a representation that such administration is not optional obtains the vaccinee's consent fraudulently and violates his bodily integrity, namely, his liberty, without due process of law, contrary to the Fifth Amendment to the U.S. Constitution. Everyone charged with defending the latter must object to that course of action in the strongest possible terms.

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respectfully, it must be defended where those who are also charged with upholding it fail to do so. And, the Oath aside, statute and regulation (references (v) through (y)) require no less.

10. Finally, I note that reference (n) does not renew the request or restate your requirement, previously received, that I sign the Page 13 (NAVPERS 1070/613) dated 22 October 2021 and delivered to me on 25 October 2021. If you are not withdrawing that document, I believe it incumbent on me to respectfully advise that, on the basis of the information I have provided to you, it likely constitutes a false official statement, reportable under reference (z) and punishable under reference (j) section 907. Likewise, current and continued efforts to force me to be vaccinated with a non-fully-FDA-licensed product likely implicate offenses, by way of reference (j) sections 877, 880, or 881, reportable under reference (z) and punishable under sections 892, 893, 928, 933, and 934 of the same. Out of an abundance of caution, and to avoid any failure on my part to comply with reference (z) and to avoid any risk of liability under section 931c of reference (j), I will be making the reports that appear necessary and proper.

11. Finally, I regret that my reply may create administrative confusion with respect to the reports that are required under reference (aa) relative to unvaccinated service members. As previously noted (reference (a)), I will advise the Chief of Naval Operations (CNO N3N5) of this communication and explain that my unvaccinated status does not arise from having refused to accept the fully-FDA-licensed Comirnaty® product.

12. On a personal note, we have always had a great rapport and an effective working relationship. I have never had and do not now have any reason to wish, or to have wished, that situation to change. At this point, I cannot put into terms any more heartfelt, sincere, and respectfully candid than those herein expressed how serious this matter is for all service members. And I cannot but assure you that they are most respectfully submitted.

Pursuant to Section 1746 of Title 28 of the United States Code, I certify under penalty of perjury that the foregoing is true and correct. Executed on 15 November 2021.



J. F. CHARPE

## Sharpe, John F CDR USN DMA MS (USA)

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**From:** Sharpe, John F CDR USN DMA MS (USA)  
**Sent:** Tuesday, November 16, 2021 11:25 AM  
**To:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA);  
(b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6)@navy.mil; (b) (6) CIV  
DMA MS (USA)  
**Subject:** looking for FDA-licensed COVID vaccine

CAPT:

As you know, on and off throughout our correspondence dating from 28 October, I have expressed my interest in finding a fully FDA-licensed COVID-19 vaccine so as to determine whether it is even practically possible for me to comply with the order - most recently reiterated, in pertinent part, yesterday by way of CHINFO's 10 November 2021 Memorandum - to receive vaccination with such a product.

As I detailed in my 9 Nov 21 email to CHINFO, to which I have had no reply, I have been searching the NCR for the licensed product, and I have indicated that, unless otherwise directed by you or CHINFO, I will continue to look for it, so as to avoid, scrupulously, the appearance or reality of refusing to comply with a lawful order.

At the same time, your (CHINFO's) most recent order directed me to get a first dose of the vaccine at the Pentagon yesterday, 15 November 2021, which, as you know, and as I detailed in my letter of 15 November 2021, I did not get, because the fully FDA-licensed product was not available there.

I am also aware that the reporting requirements of NAVADMIN 249/21 require you to report to the CCDA this week service-member vaccination status as such status existed on 15 November 2021.

Since 15 November 21 is now passed, and since between 28 October and yesterday, inclusive, I have been unable to locate a fully licensed COVID-19 vaccine product, should I continue to try to find a licensed vaccine or should I simply concede defeat, and cease and desist in my efforts?

In either case, I would still appreciate - despite your not as of yet having done so - your and CHINFO's compliance with NAVADMIN 190/21 paragraph 3e(3), which requires (it is not optional) local commanders to provide their subordinates with "information and guidance regarding vaccine availability and administering locations." Despite your having delivered to me yesterday CHINFO's order that I accept vaccination with an EUA-authorized vaccine, neither you nor CHINFO have provided any information - despite repeated requests - as to the "availability and administering locations" of the fully FDA-licensed product.

Because I anticipate being placed in some jeopardy - albeit improperly and arguably invalidly - for my having what you and/or CHINFO will likely construe and cognize as an "unvaccinated" status as of 15 November 2021, I am (without intending to be melodramatic) begging you to advise me where the fully FDA-licensed vaccine is available. In the alternative, please tell me clearly that I am "off the hook" as to continuing to look for it.

Finally, I would ask you to bear continuously in mind the good of the Naval Service, and what kind of impression it would create were you to simply refuse to provide a substantive reply to my request, which is based upon an express directive that we all received from the Chief of Naval Operations and to which, in simple fairness, I believe I am entitled. I recognize that many of us are in difficult and uncomfortable positions based on how the DoD COVID vaccination program has been practically implemented, but I don't think that should get us off the hook from following lawful orders and directives - a concept which your comments to me yesterday make very clear you support.

Thank you in advance for your attention to this matter.

Very respectfully submitted,

CDR John F. Sharpe, USN, APR+M  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

## Sharpe, John F CDR USN DMA MS (USA)

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) .mil@us.navy.mil>  
**Sent:** Wednesday, November 17, 2021 10:34 AM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA); (b) (6) CIV USN (USA);  
(b) (6) LT USN NAVY JAG WASH DC (USA); (b) (6) @navy.mil; (b) (6) CIV  
DMA MS (USA)  
**Subject:** RE: looking for FDA-licensed COVID vaccine

CDR Sharpe --

As a Navy service member, you are required to be fully vaccinated against COVID-19 through administration of vaccines that have received Food and Drug Administration (FDA) licensure or through the voluntary administration of vaccines under FDA Emergency Use Authorization (EUA) or World Health Organization (WHO) Emergency Use Listing.

COVID-19 vaccination is mandatory for all Navy service members who are not medically or administratively exempt. It is your responsibility to be fully vaccinated or seek an exemption.

You have received multiple orders to be fully vaccinated. NAVADMIN 190/21 constitutes a lawful order. Most recently, you were ordered to receive an initial dose of the FDA-approved ComirnatyR or FDA-authorized Pfizer-BioNTech COVID-19 vaccine from DiLorenzo Health Clinic by November 15, 2021. This order, along with NAVADMIN 190/21, constitutes a lawful order.

Your failure to follow these orders, along with any others, on the basis of your belief that they are unlawful is at your own jeopardy.

Refusal to be fully vaccinated against COVID-19, absent an approved exemption, constitutes a failure to obey a lawful order and is punishable under the UCMJ and/or may result in administrative action in accordance with existing COVID-19 Consolidated Disposition Authority (CCDA) guidance.

On November 15, 2021, you had access to healthcare providers to address questions regarding COVID-19 vaccination. You then declined to receive the COVID-19 vaccine.

You are under no obligation to seek out the FDA-approved ComirnatyR or other FDA-approved vaccine outside the military medical system.

Please direct all further questions, concerns, or communications to CDR  
(b) (6) mil@us.navy.mil.

V/r,  
(b) (6)



Capt. (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6).mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

-----Original Message-----

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Sent: Tuesday, November 16, 2021 11:25 AM  
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(USA) (b) (6).mil@us.navy.mil>; (b) (6) @navy.mil; (b) (6),  
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Subject: looking for FDA-licensed COVID vaccine

CAPT:

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I am also aware that the reporting requirements of NAVADMIN 249/21 require you to report to the CCDA this week service-member vaccination status as such status existed on 15 November 2021.

Since 15 November 21 is now passed, and since between 28 October and yesterday, inclusive, I have been unable to locate a fully licensed COVID-19 vaccine product, should I continue to try to find a licensed vaccine or should I simply concede defeat, and cease and desist in my efforts?

In either case, I would still appreciate - despite your not as of yet having done so - your and CHINFO's compliance with NAVADMIN 190/21 paragraph 3e(3), which requires (it is not optional) local commanders to provide their subordinates with "information and guidance regarding vaccine availability and administering locations." Despite your having delivered to me yesterday CHINFO's order that I accept vaccination with an EUA-authorized vaccine, neither you nor CHINFO have provided any information - despite repeated requests - as to the "availability and administering locations" of the fully FDA-licensed product.

Because I anticipate being placed in some jeopardy - albeit improperly and arguably invalidly - for my having what you and/or CHINFO will likely construe and cognize as an "unvaccinated" status as of 15 November 2021, I am (without intending to be melodramatic) begging you to advise me where the fully FDA-licensed vaccine is available. In the alternative, please tell me clearly that I am "off the hook" as to continuing to look for it.

Finally, I would ask you to bear continuously in mind the good of the Naval Service, and what kind of impression it would create were you to simply refuse to provide a substantive reply to my request, which is based upon an express directive that we all received from the Chief of Naval Operations and to which, in simple fairness, I believe I am entitled. I recognize that many of us are in difficult and uncomfortable positions based on how the DoD COVID vaccination program has been practically implemented, but I don't think that should get us off the hook from following lawful orders and directives - a concept which your comments to me yesterday make very clear you support.

Thank you in advance for your attention to this matter.

Very respectfully submitted,

CDR John F. Sharpe, USN, APR+M  
Operations Officer  
Mission Support Line of Business  
Defense Media Activity  
6700 Taylor Avenue  
Fort Meade, MD 20755  
john.f.sharpe2.mil@mail.mil  
(301) 222-6283 (w)  
(703) 653-4075 (c)

## Sharpe, John F CDR USN DMA MS (USA)

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**From:** (b) (6) CAPT USN CHINFO WASHINGTON DC (USA) (b) (6) mil@us.navy.mil>  
**Sent:** Wednesday, November 17, 2021 12:05 PM  
**To:** Sharpe, John F CDR USN DMA MS (USA)  
**Cc:** (b) (6) CDR USN CHINFO WASHINGTON DC (USA) (b) (6) CIV USN (USA);  
(b) (6) LT USN NAVY JAG WASH DC (USA) (b) (6) @navy.mil; (b) (6) CIV  
DMA MS (USA); (b) (6) CAPT USN DMA MPHQ (USA)  
**Subject:** Cancellation of TAD orders to DMA effective 1600 EST, 23 Nov 2021

CDR Sharpe --

In accordance with NAVADMIN 256/21 para 4.b., your TAD orders to the Defense Media Activity are cancelled effective 1600 EST, 23 Nov 2021. You are to report for duty at CHINFO HQ virtually (via email or telephone) NLT 0800 EST, 24 Nov 2021, to CDR (b) (6), Deputy Asst. Chief of Information CHINFO (OI-8). He may be contacted at:

CDR (b) (6), USN  
Requirements, Policy and Professional Development (OI-8)  
Navy Office of Information (CHINFO)  
1200 Navy Pentagon, Rm 4B514  
Washington, DC 20350-1200  
Cell: (b) (6)  
Email: (b) (6) mil@us.navy.mil

V/r,  
(b) (6)

Capt (b) (6), USN  
Deputy Chief of Information  
U.S. Navy  
(b) (6) mil@us.navy.mil  
703-695-0911 (office)  
(b) (6) (mobile)

24 Nov 21

From: CDR John F. Sharpe, USN (ret.)  
To: Chief of Information

VIA EMAIL (b) (6) .MIL@US.NAVY.MIL; (b) (6) @NAVY.MIL

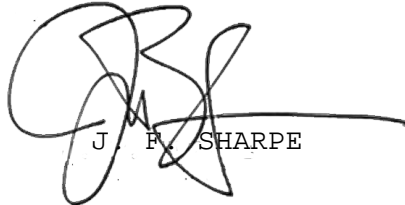
Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1): ADDENDA AND ERRATA

Ref: (a) My ltr of 23 Nov 21 (w/ encls)  
(b) JAGINST 5800.7G  
(c) 10 U.S.C. § 938  
(d) Your e-mail ltr of 24 Nov 21

Encl: (1) My e-mail ltr of 23 Nov 21 (w/o encls)

1. Reference (a) submitted yesterday pursuant to references (b) and (c), receipt of which you kindly acknowledged at reference (d), contained several typographical errors and omissions. I regret the oversight, and respectfully request that you replace reference (a) with enclosure (1). Reference (a)'s enclosures are unchanged and are therefore not here provided.

2. Thank you again for your attention to this matter.



J. F. SHARPE

23 Nov 21

From: CDR John F. Sharpe, USN (ret.)  
To: Chief of Information

VIA EMAIL (b) (6) .MIL@US.NAVY.MIL; (b) (6) @NAVY.MIL

Subj: REQUEST FOR REDRESS PER JAGMAN § 0305a(1)

Ref: (a) JAGINST 5800.7G  
(b) 10 U.S.C. § 938  
(c) ASD(HA) Memo (undated)  
(d) ASN(M&RA) Memo of 8 Sep 21  
(e) BUMED Memo 6300 Ser M00/21M00035 of 3 Sep 21  
(f) SECDEF Memo of 24 August 2021, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members*  
(g) SECNAV WASHINGTON DC 302126Z Aug 21 (ALNAV 026/21)  
(h) CNO WASHINGTON DC 311913Z Aug 21 (NAVADMIN 190/21)  
(i) CNO WASHINGTON DC 152239Z Nov 21 (NAVADMIN 256/21)  
(j) CNO WASHINGTON DC 011621Z Nov 21 (NAVADMIN 249/21)  
(k) 10 U.S.C. § 1107a  
(l) PHONECON CHINFO RDML Brown / CDR Sharpe of 25 May 21

Encl: (1) My e-mail ltr of 28 Oct 21  
(2) CHINFO/(b) (6) e-mail ltr of 29 Oct 21  
(3) CHINFO/(b) (6) e-mail ltr of 29 Oct 21  
(4) CHINFO/(b) (6) e-mail ltr of 29 Oct 21  
(5) CHINFO/(b) (6) e-mail ltr of 2 Nov 21  
(6) My e-mail ltr of 9 Nov 21  
(7) My e-mail ltr of 9 Nov 21  
(8) CHINFO/CAPT (b) (6) e-mail ltr of 9 Nov 21  
(9) My ltr of 15 Nov 21  
(10) My e-mail ltr of 16 Nov 21  
(11) CHINFO/CAPT (b) (6) e-mail ltr of 17 Nov 21  
(12) CHINFO/CAPT (b) (6) e-mail ltr of 17 Nov 21

1. As required by reference (a) and pursuant to reference (b), I respectfully request redress of the wrongs detailed herein.

2. Background.

a. On 15 October 2021 I was directed by the chief of staff at the Defense Media Activity (DMA), where I have been stationed, to contact your deputy to provide my COVID-19 vaccination status. I did so, as directed, and indicated to him my intention to request an exemption from the vaccination requirement by way of religious accommodation.

b. On 19 October 2021 (and again on 25 October 2021) I received from you via your Chief Yeoman for administration a NAVPERS 1070/613 which ordered me to become fully vaccinated for COVID-19 by 28 November 2021. It further stated:

enclosure (1)

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The U.S. Food and Drug Administration (FDA) approved the first COVID-19 vaccine, Pfizer-BioNTech, for the prevention of COVID-19 in individuals 16 years of age and older, and announced that the vaccine will be marketed as Comirnaty. Accordingly, the Secretary of Defense (SECDEF) has directed full vaccination of all service members in the Armed Forces on active duty or in the Ready Reserve who are not fully vaccinated against COVID-19. Mandatory vaccination can only use COVID-19 vaccines that receive full licensure from the FDA, in accordance with FDA-approved labeling and guidance. Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable; Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations.

c. On 28 October 2021 I expressed to your deputy some hesitation regarding a religious accommodation request, and asked him, in the event I declined to submit one, to provide me with information as to the availability of the fully FDA-licensed COVID-19 vaccine. (enclosure (1)) He replied by stating that "FDA approved COVID vaccines are available on demand at the Pentagon." (enclosure (2))

d. On 29 October 2021, he indicated that "[t]he only vaccines being administered at MTFs . . . are FDA approved." (enclosure (3)) He later corrected himself and stated that the "Pfizer/Comirnaty vaccine . . . is the only one as yet fully licensed." (enclosure (4)) He added that it "is available at the Pentagon."

e. On 2 November 2021 your deputy wrote to provide memoranda "relat[ing] to which vaccines meet the 'fully licensed' marker." (enclosure (5)) The memoranda, references (c) through (e), addressed the existence of two products, Pfizer-BioNTech COVID-19 Vaccine, authorized under Emergency Use Authorization (EUA) by the FDA, and Comirnaty (COVID-19 Vaccine, mRNA), fully approved (also called "licensed") by the FDA. The memoranda assert that the two products are "interchangeable" but are silent with respect to the question as to whether the "interchangeability" affects a service member's right to decline to receive the FDA-authorized EUA product. Notably, the memoranda are not addressed to service members; do not purport to order them to do anything with respect to accepting vaccination with the EUA product; do not cite FDA's statement that the vaccines "are legally distinct with certain differences";<sup>1</sup> and do not cite FDA or other authority for the proposition that FDA's statement that the two vaccines "can be used interchangeably to provide the vaccination series without presenting any safety or effectiveness concerns"<sup>2</sup> removes from the EUA vaccine the option to decline its administration which is attached to it by law and is memorialized in its labeling.

f. On 9 November 2021 I wrote to you via your Chief Yeoman who has been corresponding with me on your behalf regarding the required

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<sup>1</sup> FDA Letter of Authorization to Pfizer Inc. of 23 August 2021, p. 2 n8.

<sup>2</sup> *Id.*

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COVID-19 vaccination. In that e-mail (enclosure (6)) I explained my efforts, up to that point and also then ongoing, to locate the fully FDA-licensed COVID-19 vaccine product at a military treatment facility (MTF) in the national capital region (NCR) in order to comply with references (f) through (h). Those references require service members to become fully vaccinated with a fully FDA-licensed vaccine; reference (c), furthermore, makes abundantly clear that **only** a fully FDA-licensed vaccine may be used to implement the mandatory vaccination requirement. In my e-mail I also explained my concern regarding the inadequacy of references (c) through (e) and the ongoing infringement upon the rights of service members to decline the EUA product. I received no reply to that email, other than a note stating it had been received and delivered to you.

g. Also on 9 November 2021 I received an order from your deputy to submit a vaccination exemption, "get vaccinated," or articulate my refusal to do so. I replied indicating that I did **not** refuse to be vaccinated with the fully FDA-licensed product, and that I was waiting on him to provide information to me, as reference (h) requires, as to where the fully FDA-licensed vaccine was available. (enclosure (7))

h. Later that day, my temporary duty at DMA in Ft. Meade, Md., was cancelled for the duration of one day, in lieu of which I was to report to you on 15 November 2021 to receive information and direction. (enclosure (8))

i. I reported to you as ordered on 15 November 2021. In lieu of receiving anything from you personally, insofar as you had a weeks' absence from the office, previously scheduled, I received a written document dated 10 November 2021 and signed by you. In pertinent part, it: 1) ordered me to receive on 15 November 2021 a dose of the fully FDA-licensed Comirnaty® vaccine; 2) ordered me to receive on the same day a dose of the FDA-authorized Pfizer-BioNTech COVID-19 Vaccine as an alternative to receiving a dose of the licensed product; and 3) stated that I had the option of receiving, though I was not ordered to receive, an alternative vaccine product. The document cited references (c) and (e) as references in the order it memorialized for me to receive an initial dose of either the FDA-licensed or -authorized product. While it did correctly note that "the only fully FDA licensed vaccine is Comirnaty®," it also asserted that "the Pfizer[-]BioNTech COVID-19 [V]accine is interchangeable" with the licensed product.

j. In compliance with the first part of your order, I reported to DiLorenzo clinic in the Pentagon, at the time of the appointment your staff had made for me. I sought out but was unable to obtain the FDA-licensed vaccine. Following that, I provided to you a letter (enclosure (9)) outlining my experience that day and expressing my objection to the part of your order that directed me to receive a dose of the FDA-authorized vaccine product. I departed your spaces thereafter pursuant to direction from your deputy to resume my duties at DMA. As with my email of 9 November, I received no reply.

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k. The following day (16 November 2021), I wrote to your deputy informing him that, pursuant to recent orders and your direction, I would continue to try to obtain the fully FDA-licensed vaccine in the NCR, and asking if he wished me to continue to do so. (enclosure (10)) I reminded him that reference (h) orders commanders to provide vaccine availability and location information to their subordinates, and again requested that information. He replied the following day (enclosure (11)) by restating the terms of the vaccination policies above referenced, affirming that I was ordered to receive a dose of the FDA-authorized product in lieu of the availability of the fully licensed product, and asserting that I declined to receive "the vaccine," without acknowledging that, as I explained to him the day before, I sought out the licensed product and found it unavailable, and that I only exercised my right under federal law, Secretary of Defense policy, and department and service regulations, directives, and policies to decline to receive a vaccine product that has merely received FDA emergency authorization.

l. Also on 17 November 2021, your deputy again cancelled my temporary assignment to DMA (enclosure (12)) effective 1600 today, citing reference (i) ¶ 4b:

Commanders will notify those Navy service members *refusing the vaccine* who are executing funded or no-cost TAD orders for training, or any other official purpose, to halt their assigned activity and return to their command within five working days.

(emphasis supplied) With this communication, your deputy indicated that I am being considered by your command as "refusing the vaccine."

m. Reference (i) ¶ 3c defines "Refusing the vaccine" as follows:

A Navy service member refusing the vaccine is one who has: (1) received a lawful order to be fully vaccinated against COVID-19, (2) is not or will not be fully vaccinated on the date required by the order, and (3) does not have a pending or approved exemption request.

n. My current status satisfies the second and third elements of the definition of having "refused the vaccine" but does not satisfy the first, insofar as the order to accept the Comirnaty® vaccine or the Pfizer-BioNTech COVID-19 Vaccine is either incapable of being complied with or unlawful.

o. A report of my currently unvaccinated status was required by reference (j) to be made no later than 19 November 2021 to the Department of the Navy COVID Tracking Site ("DON COVID Tracker"). On information and belief, your staff reported me as "unvaccinated, refuser" per the reference ¶ 3.

p. To date, neither you nor any member of your staff has provided me with information as to where the fully FDA-licensed COVID-19 vaccine is available within MTF system.



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q. On information and belief, you have taken no investigative or corrective action with regard to potential violations of federal law and regulation arising from the way in which the COVID-19 vaccination program has been implemented, as outlined in enclosures (6) and (9).

3. Request for redress.

a. I respectfully assert that you have wronged me by:

(1) Issuing me a NAVPERS 1070/613 which falsely states that "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations," when that purported "authorization" is contrary to federal law, department and service regulation, the express direction of references (f) through (h), and FDA administrative guidance with respect to the continuing authorization under EUA for the stocked and currently available Pfizer-BioNTech COVID-19 Vaccine, and when it likewise is predicated upon authority that references (c) through (e) do not possess in view of other and contrary controlling law.

(2) Failing to provide me, as required by reference (h) ¶ 3e(3), "information and guidance regarding vaccine availability [of] and administering locations [for]" the FDA-approved Comirnaty®, consistent with its labeling, as reference (f) requires.

(3) Inaccurately asserting in your memorandum of 10 November 2021 that I was "previously ordered on 24 August, 30 August, 31 August, and 25 October, 2021 [sic] to comply with references (b) and (c)" (which are references (g) and (h) herein), when I could not possibly have received an order on 24 August 2021 to comply with references dated respectively 30 and 31 August, or ordered on 30 August 2021 to comply with a reference dated 31 August 2021. Additionally, I was not ordered to do anything on 24 August 2021 - the date of the memorandum issued by SECDEF announcing a COVID-19 mandatory vaccination policy. SECDEF's memorandum is not self-executing; it directs the Secretaries of the Military Department to implement his policy.

(4) Ordering me to submit over my objection and without my consent to vaccination with the FDA-authorized product, which you admit is not fully FDA-licensed.

(5) Ordering me to receive vaccination with a fully FDA-licensed product which neither you nor the military health system have made or can make reasonably available to me.

(6) Categorizing me as "refusing the vaccine" presumably because my status fits the first as well as (admittedly) the second and third elements of the definition of "refusing the vaccine," even though I have not "received a lawful order to be fully vaccinated

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against COVID-19," because the order, in the case of FDA-approved Comirnaty®, is incapable of being fulfilled,<sup>3</sup> and, in the case of the FDA-authorized Pfizer-BioNTech, absent a Presidential waiver under reference (k) of my right to decline the administration to me of a product that has not been fully licensed by the FDA, it is unlawful.

(7) On information and belief, reporting me to the DON COVID Tracker as "unvaccinated, refuser."

(8) Cancelling my temporary assignment to DMA effective 1600 today on the basis of your improperly categorizing me as refusing the vaccine.

(9) Taking no investigative or corrective action to remedy the violation of law and regulation alluded to in enclosures (6) and (9), thereby subjecting me to improper pressure and unlawful orders by your personal staff to consent to vaccination with a non fully FDA-licensed product and personally to acquiesce or provide the appearance of acquiescing in behavior by MTF staff and leadership that perpetuates the continuing statutory and regulatory violations detailed in the enclosures.

b. I respectfully request as redress that you:

(1) Provide me, as required by reference (h) ¶ 3e(3), "information and guidance regarding vaccine availability [of] and administering locations [for]" the FDA-approved Comirnaty®.

(2) Modify the portion of your 10 November 2021 memorandum stating that I was "previously ordered on 24 August, 30 August, 31 August, and 25 October, 2021 [sic] to comply with references (b) and (c)" by removing "24 August."

(3) Modify the portion of your 10 November 2021 order relating to the requirement to receive two doses of Comirnaty® to specify that I am required to receive those doses within a reasonable time after the vaccine becomes reasonably available for administration within the MTF enterprise.

(4) Withdraw as unlawful the portion of your 10 November 2021 order that requires me to receive doses of the FDA-authorized Pfizer-BioNTech COVID-19 Vaccine.

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<sup>3</sup> See *United States v. Pinkston*, 21 C.M.R. 22, 27 (U.S. C.M.A. 1956) (noting that it would be "downright shocking" to hold an accused liable for criminal disobedience of an order where he sincerely sought to comply with it but was incapable of doing so); accord *United States v. Stovall*, 44 C.M.R. 576, 580 (A.F.C.M.R. 1971) (noting that it is "common sense that a person is not guilty of a criminal offense when, as to the offense charged against him, he was [subject to] extrinsic forces over which he had no control"); *United States v. Borell*, 46 C.M.R. 1108, 1111 (A.F.C.M.R. 1973) ("Impossibility of performance is an affirmative defense in disobedience of orders cases."); see also *Winthrop Military Law and Precedent* § 883 (listing "physical impossibility" as "excusing a complete performance" of an order); *Manual for Courts-Martial* (2019) Part IV ¶ 16c(2)(f) (requiring "an intentional defiance of authority" to find "[w]illful disobedience" (emphasis supplied)).

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(5) With regard to the above-noted NAVPERS 1070/613 (¶ 3a(1)):

(a) Withdraw it as unnecessary when issued, because reference (h) ¶ 3e(4) only required, in pertinent part, counseling "regarding refusal to take the COVID-19 vaccine" to be conducted with "service members without a pending exemption request," and when it was issued, it was understood that I had an exemption request working and was not engaged in any activity cognizable as refusing the vaccine;

(b) Modify it by removing the statement "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable; Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations"; or,

(c) Modify it by removing the statement "Navy medical providers are authorized to use Pfizer-BioNTech doses distributed under the Emergency Use Authorization to administer mandatory vaccinations" and revising the statement "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and are interchangeable" to read, "Per the FDA's guidance, the Pfizer-BioNTech and Comirnaty vaccines have the same formulation and can be used interchangeably to provide the vaccination series without presenting any safety or effectiveness concerns, although they are legally distinct with certain differences."

(6) Reverse your categorization of me as "refusing the vaccine" pursuant to reference (i).

(7) Modify your report of me as "unvaccinated, refuser" to the DON COVID Tracker, seek further guidance from the COVID Consolidated Disposition Authority (CCDA) or other officials having custody of DON COVID Tracker data as to how properly to report a service member who is unvaccinated due to the unavailability of a fully FDA-licensed vaccine within the MTF enterprise, recommend to the CCDA or other responsible officials that a category be created to accurately report service members who are not pending or in receipt of an exemption, not operationally inaccessible, and not "refusers" because they have not refused to accept vaccination with a fully FDA-licensed product.

(8) Restore my temporary assignment to DMA to extend through 31 May 2022 pursuant to the original orders of reference (1).

(9) In the alternative to redress requested at ¶¶ 3b(3)-(7):

(a) Provide me documentary evidence substantiating the claim implied in your 10 November 2021 document that the EUA-authorized Pfizer-BioNTech COVID-19 Vaccine can be used interchangeably with the fully FDA-licensed Comirnaty® (COVID-19 Vaccine, mRNA) for purposes of creating a lawful military requirement that I consent to vaccination with the Pfizer-BioNTech COVID-19

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Vaccine, when references (f) through (h) mandate vaccination with "only" a FDA-approved product and the President has not waived under reference (k) my right to decline the administration to me of a product that is only FDA-authorized for emergency use.

(b) Provide me documentary evidence substantiating your authority - absent a Presidential waiver under reference (k) of my right to decline the administration to me of a product that is only FDA-authorized for emergency use - to order me to receive vaccination, over my objection and without my consent, with the Pfizer-BioNTech COVID-19 Vaccine, which you acknowledge in your memorandum of 10 November 2021 is authorized rather than fully licensed by the FDA.

(c) Provide me documentary evidence substantiating the express intent of the Secretary of Defense, the Secretary of the Navy, and the Chief of Naval Operations, to contradict, nullify, rescind, or otherwise modify the language of their directives at references (f) through (h) - that mandatory COVID-19 vaccination will use **only** fully FDA-licensed vaccines - on the basis of an FDA remark that for safety, effectiveness, or other medical prophylactic purposes, the emergency authorized product can be used "interchangeably" with a fully FDA-licensed product, so as to direct me to present myself for non-consensual vaccination with a product that is not fully FDA-licensed.

(d) Since your 10 November 2021 document cites references (c) and (e) for the proposition that I can be lawfully ordered to accept over my objection and without my consent the Pfizer-BioNTech COVID-19 Vaccine, provide me documentary evidence substantiating that the Assistant Secretary of Defense (Health Affairs) and the Navy Surgeon General: 1) exercise direct command authority over Navy medical personnel sufficient to enable the former lawfully to order the latter to administer an EUA-authorized vaccine in lieu of a licensed vaccine when service members present themselves for vaccination on the basis of a reasonable belief that they are only required to receive, and that they are in fact receiving, a fully FDA-licensed product; and 2) possess authority over naval service members, in their capacity as potential vaccinees, adequate to revoke their right, absent a Presidential waiver thereof under reference (k), to decline administration to them of a product that is only FDA-authorized for emergency use, especially in the face of express direction to the contrary provided at references (f) through (h).

(e) Provide me documentary evidence substantiating **verbatim** the claim in the NAVPERS 1070/613 you issued as well as in references (c) and (d) that Comirnaty® and the Pfizer-BioNTech COVID-19 Vaccine "are interchangeable" and not simply that they "*can be used interchangeably to provide the vaccination series* without presenting any safety or effectiveness concerns" (emphasis supplied).

(f) Provide me documentary evidence that substantiates the claim in the NAVPERS 1070/613 you issued that Comirnaty® is simply the

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name the Pfizer-BioNTech COVID-19 Vaccine will be "marketed as," and that the products COVID-19 Vaccine, mRNA and Pfizer-BioNTech COVID-19 Vaccine are not, instead, two distinct products in two distinct marketing categories, biologics license application approved and EUA, respectively.

(g) Provide me documentary evidence substantiating **verbatim** the claim in your 10 November 2021 order incorporating by reference the assertion of reference (c), that FDA guidance states that health care providers "*should 'use doses distributed under the EUA to administer the vaccination series as if the doses were the licensed vaccine'*" (emphasis supplied), when the only purported FDA "guidance" to that effect that exists is an FDA website stating that such personnel **can** use EUA doses in that capacity.<sup>4</sup>

(h) Provide me documentary evidence substantiating **verbatim** the claim in your 10 November 2021 order incorporating by reference the assertion of reference (e), that on 23 August 2021 "FDA revised the Emergency Use Authorization (EUA) for the Pfizer-BioNTech COVID-19 vaccine for individuals *12-15 years of age*" (emphasis supplied), rather than reissuing the letter of authorization providing for the "authorization [to] remain[] in place with respect to that product for the previously-authorized indication and uses (i.e., for use to prevent COVID-19 in individuals 12 years of age **and older**),"<sup>5</sup> which age range **overlaps** rather than excludes the range of 16 years of age and older for which Comirnaty® is licensed.

(10) Take investigative and corrective action to remedy the violation of law and regulation alluded to in enclosures (6) and (9) as necessary to protect me from improper pressure and unlawful orders by your personal staff that I consent to vaccination with a non fully FDA-licensed product and thereby personally acquiesce or improperly provide the appearance of acquiescing in behavior by MTF staff and leadership that perpetuates the ongoing statutory and regulatory violations detailed in the enclosures.

4. Thank you for your attention to this matter, which is very respectfully submitted.

5. Pursuant to Section 1746 of Title 28 of the United States Code, I certify under penalty of perjury that the foregoing is true and correct. Executed on 23 November 2021.

J. F. SHARPE

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<sup>4</sup> <https://www.fda.gov/vaccines-blood-biologics/qa-comirnaty-covid-19-vaccine-mrna> (accessed 23 Nov 21).

<sup>5</sup> FDA Letter of Authorization to Pfizer Inc. of 23 August 2021, p. 12 (emphasis supplied).

# DEFENSE SERVICE OFFICE NORTH REMOTE SERVICES POLICY

To speak to an attorney remotely, please do the following:

1. Fill out a DSO North Client Intake Sheet. Intake sheets are available for download at [https://www.jag.navy.mil/legal\\_services/dso/DSO\\_North.htm](https://www.jag.navy.mil/legal_services/dso/DSO_North.htm) or using the QR code at the bottom of the page.
2. Send your signed PDF along with relevant attachments (ex. NJP paperwork and evidence, a copy of an MPO or investigation, ADSEP notification) via encrypted email or DoD Safe to DSONorthDefense@us.navy.mil.

**\*\*If you are unable to sign the intake sheet either physically or digitally, you may submit it unsigned\*\***

3. Once you have submitted your paperwork to the above POC's, we will contact you telephonically at the best contact number you have provided on your intake sheet. Thank you in advance for your patience.
4. For after-hours defense services or in case of emergency, please call the following numbers:
  - a. CONUS CDO: (202) 420-1267
  - b. DET Naples Duty Cell: +39 335-577-0493
  - c. BROFF Rota Duty Cell: +34 956-82-6218
  - d. BROFF Bahrain Duty Cell: +973 3947 2573



(b) (5)

(b) (5)